DOCUMENT RESUME

ED 095 680 EC 062 780

AUTHOR	Chamberlain, Michael
TITLE	The Handicapped Child's Right to an Education: A Handbook.
INSTITUTION	Child and Family Services of New Hampshire, Manchester.
SPONS AGENCY	New Hampshire State Div. of Mental Health, Concord.
PUB DATE	[74]
NOTE	208p.
EDRS PRICE	MF-$0.75 HC-$10.20 PLUS POSTAGE
DESCRIPTORS	Civil Rights; *Equal Education; *Exceptional Child Education; Glossaries; Handicapped Children; Identification; Parent Role; *Parent School Relationship; Resource Guides; *State Legislation; State Programs; State Standards; Student Placement
IDENTIFIERS	*New Hampshire; Severely Handicapped

ABSTRACT

The handbook is intended to inform parents of handicapped children and other child advocates of the right to education laws in New Hampshire and to suggest actions to obtain appropriate public education. Chapters focus on the following topics: the importance of an education to the handicapped child; definitions of the physically, intellectually, or emotionally handicapped person; the child's right to elementary and secondary education under general and specific state laws; the right to a preschool education; the need to notify the child's school district of a child's special needs; identification of the nature and/or severity of a child's learning problems; reevaluations; placement in a special educational program, the parent's right to a formal hearing before and after placement; monitoring the special class or educational program; the child's right to suitable transportation; and exemptions, suspensions, and dismissals. Appended are a bibliography, a glossary of legal terms, the state laws, the state standards for the education of handicapped persons, and a partial listing of the state's resources for the handicapped child. (DB)

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The Handicapped Child's Right To An Education:

A HANDBOOK

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Michael Chamberlain, LL.B.

**Child and Family Services
of New Hampshire**

EC 062 780

To: Sarah, Jennifer and Joshua

Acknowledgements: While I alone am responsible for any errors that may appear on the following pages, the credit for much of what is good and useful in the *Handbook* belongs to many persons. Special thanks and credit must be given to Connie Dubois for her competence, assistance, and patience. Ron Cereola, Everett Doe, Steve Roe, Pat Hill, and Carol Tarbox helped prepare the *Handbook* for publication. Drs. Kate and Bill Lothrop, and the staff of the Special Education Section for the New Hampshire State Department of Education reviewed the first drafts of the *Handbook*, and suggested a number of important changes. Debbie Helfeld prepared the section entitled: *The Resources Available to the Handicapped Child*. Finally, in writing the section entitled: *Exemptions, Suspensions and Dismissals*, I borrowed liberally from an unpublished memorandum by Wayne Pressel, a former staff member at Child and Family Services.

THIS HANDBOOK COULD NOT HAVE BEEN WRITTEN OR PUBLISHED WITHOUT THE FINANCIAL SUPPORT AND ENCOURAGEMENT WE RECEIVED FROM THE NEW HAMPSHIRE DIVISION OF MENTAL HEALTH AND THE MANCHESTER COMPREHENSIVE MENTAL HEALTH CENTER.

PREFACE

This Handbook was written for parents and other child advocates. The information provided in the Handbook is a tool that parents, teachers, social workers and other concerned persons can use to safeguard the handicapped child's right to an appropriate education.

However, to secure an effective education for the handicapped child will not be an easy task. Parents and other child advocates must organize together to pursue both legal and legislative remedies whenever the handicapped child is denied his or her right to "the best and most effective education possible."

Other persons and organizations - the American Civil Liberties Union, social agencies, New Hampshire Legal Assistance, private attorneys, the Medical Society, concerned legislators, teachers and school administrators - can assist you in the courts or before the State Legislature. However, the spirit and the momentum behind such an effort will have to come from you: the child's parents.

Anticipating the inevitability of important reforms in the laws affecting the handicapped child, Child and Family Services of New Hampshire is prepared to send you updates on the State's laws and educational standards, as well as any relevant court decisions on the handicapped child's right to an appropriate education.

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Following the text, we have included a Bibliography, a Glossary of Legal Terms, the State Laws, the State Standards for the Education of Handicapped Persons, and a partial listing of the State's Resources for the Handicapped Child.

INTRODUCTION

In earlier times the handicapped child was not seen as a public concern or responsibility.[1] And even today, while expressing great concern for children, few states invest much of their resources in programs designed to help the handicapped child. In addition, state laws and public institutions (e.g. schools) often appear indifferent to the special problems and needs of the handicapped child. As a result, many handicapped children have been denied basic rights and opportunities that are uniformly granted to other children.

For example, despite state laws providing children with a right to a publicly supported education, there may be as many as one million handicapped children in the United States who have been excluded from the public schools.[2] Here in New Hampshire, because of inadequate funding of programs of special education, at least 125 handicapped children are known to be awaiting placement in appropriate educational programs.[3]

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1. Watson v. City of Cambridge, 157 Mass. 561 32 N.E. 864 (1893), State ex rel Beattie v. Board of Education, 169 Wis. 231, 172 N.W. 153 (1919).
2. Weintraub, F. and Alan Abeson "Appropriate Education for All Handicapped Children: A Growing Issue", Syracuse Law Review, Symposium Issue, Vol.24, No.4, December, 1972.
3. Source: Arthur Gillette, Acting Director, Special Education Section, N.H. State Department of Education.

After six months of being on the waiting list, seven (7) of these children had been sent to the State Industrial School*. Hundreds of other handicapped children have been assigned to educational program that do not meet their needs. As a result, many of these children are often early "drop-outs" from school; suffer emotional problems**; and often find it impossible to actualize their potential.

The purpose of this handbook is to inform parents and other child advocates of their children's rights to an effective education, and to suggest the actions a parent or other child advocate can take to secure the child's right to an effective education.

* Hill, P., The Education of Handicapped Children in Manchester, N.H., Child and Family Services of New Hampshire (1974), p.20.

** Ms. Hill also reports that of the 60 children at the N.H. State Hospital, 90% have been discovered to have some form of moderate to severe learning disability. IBID, p.20.

THE IMPORTANCE OF AN EDUCATION TO THE HANDICAPPED CHILD

> *In these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education.*
>
> *- the United States Supreme Court*[4]

That education is important to handicapped children cannot be denied. In fact, most professionals agree that every handicapped child can benefit from "the opportunity of an education." [5] For example, according to Dr. Philip Roos, the Executive Director of The National Association for Retarded Children,

> Even the most profoundly retarded.... have some capacity for development. The scope of special education (should and can) include all levels of retardation.[6]

It should also be recognized that in depriving the handicapped child of his right to an effective education, the state may deny an education to the most needy. For unlike children who can acquire certain basic skills (e.g. the ability to read) through experience or informal instruction, most handicapped children will require formal programs

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4. Brown v. Board of Education, 347 U.S. 443 (1954).
5. Roos, P., "Trends and Issues on Special Education for the Mentally Retarded", Education and Training of the Mentally Retarded, Vol.5, No.2 (1970). See Exceptional Children in the Schools, Lloyd Dunn, ed., Holt, Rinehart, Winston (1963).
6. IBID, p.51

of instruction and/or training to acquire these skills. The retarded child, in particular, may suffer great harm if he is deprived of his "opportunity of an education". According to Professor Thomas Gilhool of the University of Southern California,

> Absent education, the retarded children will be unable to provide for himself, and may even be incapable of self-care and hence in jeopardy of institutionalization, loss of liberty and even loss of life.[7]

Given the obvious importance of an education to every handicapped child, it is the duty of parents and other child advocates to do everything in their power to ensure that handicapped children are not deprived of their right to an effective education.

[7] 'Plaintiffs' Memorandum in Support of Their Motion To Convene a Three Judge Court", Pennsylvania Association for Retarded Children v. Commonwealth of Pennsylvania, 334 F. Supp. 1257 (E.D. Pa. 1971).

WHO IS HANDICAPPED?

According to state law - RSA 186-A:2, a handicapped child shall mean any person up to twenty-one years of age (21) who meets one or more of the following definitions: *(Note: The definitions are extremely vague. Thus the definitions are only useful in that they provide a general standard or reference point for the professional - physician, psychiatrist or psychologist - whose diagnosis that a child is physically, intellectually or emotionally handicapped must also satisfy the State's legal definition of handicapped if a child is to be eligible for a program of special education).*

RSA 186-A:2,

I. "PHYSICALLY HANDICAPPED SHALL MEAN A PERSON UP TO TWENTY-ONE YEARS OF AGE, MARRIED OR UNMARRIED, WHOSE ACTIVITY IS OR MAY BECOME SO FAR RESTRICTED BY REASON OF A PHYSICAL DEFECT OR INFIRMITY, HOWEVER CAUSED, AS TO REDUCE HIS NORMAL CAPACITY FOR EDUCATION OR

I. (cont'd)

SELF-SUPPORT, OR BOTH."[8]

Comments: Note that in order for a person to be considered physically handicapped under N.H. law (and thereby to be eligible for a program of special education), a child must not only be handicapped but that handicap must also reduce the child's normal capacity for education and/or self-support. Presumably, a child whose handicap does not affect his capacity for education does not belong in a special class or program.

In its publication, "Standards for the Education of Physically Handicapped", the State Department of Education describes several types of physical handicaps. These descriptions are rather technical, and are sometimes confusing, but they may be useful to the professional (physician, audiologist, psychologist or psychiatrist) who is responsible for determining if your child is physically handicapped.

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8. RSA 186-A:2, I, (supplement) as amended in the 1974 Special Session.

(1) Learning Disabled

"Children with one or more significant deficits in essential learning processes requiring remediation through special educational techniques. A child in this category generally demonstrates a discrepancy between expected and actual achievement in receptive or expressive language and/or spatial orientation. Learning disability is not primarily the result of sensory, motor, intellectual, or emotional handicaps, nor is it the result of the lack of opportunity to learn. However, learning disabled children are sometimes seen displaying the above handicaps in addition to their learning disability."[9]

(2) Hearing Handicapped

(a) Deaf

"Children with a hearing loss severe enough to seriously interfere even with amplification and communication

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[9] "Standards for the Education of Physically Handicapped", a publication of the N.H. State Department of Education.

(2) Hearing Handicapped (cont'd)

(a) Deaf

training in the development of receptive or expressive language skills. Usually a child in this category has suffered the hearing loss before the development of spoken language.

(b) Hard-of-Hearing

Children with a hearing loss severe enough to seriously interfere without amplification or communication training in the development of receptive or expressive language skills. A child in this category may suffer a hearing loss before or after the development of spoken language."[10]

(3) Vision Handicapped

(a) Blind

"Children whose vision loss indicates that they can and should function in their total educational program chiefly

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10. IBID. p.2

(3) Vision Handicapped (cont'd)

through the Braille system, audi-aids and special equipment necessary for them to pursue their education effectively without the use of residual vision.

(b) Partially Sighted

Children who retain limited but useful vision for acquiring an education, but whose visual impairment after needed treatment and/or correction reduces school progress to such an extent that special educational provisions are necessary."[11]

(4) Speech Disorders

"Children with speech patterns that deviate so far from the speech of other children that it calls attention to them, interferes with communication, or causes its possessor to be maladjusted."[12]

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11. IBID, p.2
12. IBID, p.2-3

WHO IS HANDICAPPED? (cont'd)

RSA 186-A:2,

II. "INTELLECTUALLY HANDICAPPED SHALL MEAN A PERSON UP TO TWENTY-ONE YEARS OF AGE, MARRIED OR UNMARRIED, WHOSE ACTIVITY IS OR MAY BECOME SO FAR RESTRICTED BY INTELLECTUAL HANDICAP, HOWEVER CAUSED, AS TO REDUCE HIS NORMAL CAPACITY FOR EDUCATION OR SELF-SUPPORT, OR BOTH." [13]

Comments: Note that in order for a person to be considered "intellectually handicapped" under N.H. law (and thereby to be eligible for a program of special education) a child must not only be handicapped, but that handicap must also reduce the child's normal capacity for education and/or self-support. Otherwise, there would be no reason to place the child in a special class or program.

RSA 186-A:2,

III. "EMOTIONALLY HANDICAPPED SHALL MEAN A PERSON UP TO TWENTY-ONE YEARS OF AGE, MARRIED OR UNMARRIED, WHO, BY REASON OF

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[13] RSA 186-A:2, II,(supplement) as amended in the 1974 Special Session of the N.H. Legislature.

III. (cont'd)

INTERNAL EMOTIONAL CONFLICTS, HOME CONDITIONS OR GENERAL ENVIRONMENT, HAS BEHAVIOR AND/OR LEARNING PROBLEMS OR IS OTHERWISE UNABLE TO MAKE NORMAL SOCIAL OR EDUCATIONAL ADJUSTMENTS BUT WHO HAS SUFFICIENT INTELLECTUAL AND EMOTIONAL CAPACITY TO BE ENABLED WITH CLINICAL DIAGNOSIS, PROPER TREATMENT, TRAINING AND REMEDIAL EDUCATION TO BECOME A RESPONSIBLE AND SELF-SUPPORTING CITIZEN."[14]

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[14] RSA 186-A:2, III, (supplement) as amended in the 1974 Special Session of the N.H. Legislature.

THE HANDICAPPED CHILD'S RIGHT TO AN ELEMENTARY AND SECONDARY SCHOOL EDUCATION UNDER STATE LAW

> Society now recognizes that public elementary and secondary education is a state-granted constitutional right.
>
> - New Hampshire's Federal District Court[15]

Handicapped children are first of all children, and are therefore entitled to all the rights that have been granted to children. Thus parents and other child advocates should look beyond the "special" laws that have been enacted to protect the handicapped child, and they should also examine those state laws that are intended to benefit and protect all children. When read in conjunction with the "special" laws, these state laws can provide significant benefits and guarantees to the handicapped child.

The State Laws Providing All Children With A Right To An Education

> *No authority is needed for the fundamental American principle that a public school education through high school is a basic right of all citizens.*
>
> *- New Hampshire's Federal District Court*[16]

The New Hampshire State Legislature is empowered by the

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[15] Vail v. Board of Education of the Portsmouth School District, 354 F. Supp. 592, 602 (1973).

[16] Cook v. Edwards, 341 F. Supp. 307, 310-311 (1972).

Constitution of New Hampshire, Part II, Article 83 - "Encouragement of Literature, Trades, etc." to make laws concerning education. Pursuant to this grant of authority, the Legislature enacted RSA 189:1-a (supplement):

> *Duty to Provide Education.* It shall be the duty of the school board to provide, at district expense, elementary and secondary education *to all pupils* under 18 years of age that *reside in the* district....(emphasis added).

Another state law - RSA 193:1 obligates every child to attend school between the ages of 6 and 16:

> *Duty of Pupil.* Every child between 6 and 16 years of age shall attend the public school within the district or public school outside the district to which he is assigned or the approved private school during all the time the public schools are in session...(emphasis added).

Citing these two laws (RSA 189:1-a and 193:1), the Federal District Court here in New Hampshire has stated that

> "Society now recognizes that public elementary and secondary school education is a state-granted constitutional right." [17]

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17. *Vail v. the Board of Education of the Portsmouth School School District*, 354 F. Supp. 592, 602 (1973).

Parents and other child advocates should note the words used in the two laws (RSA 189:1-a and RSA 193:1): "education to all pupils" and "every child... shall attend the public school". This statutory language is evidence that the right to an education has been granted to the handicapped child. Therefore, pursuant to RSA 189:1-a and RSA 193:1, when a handicapped child reaches six* years of age he has a right to a publicly supported education through high school or until he is 18** years old. The child's local school district is responsible for providing the child with this publicly supported education.

Note that under RSA 189:1-a, the school district must provide education to every child who resides in the district. Although "residence" is a difficult term to define, it usually means where a child lives. Generally a child's residence is the same as his parents. However, if a child has been removed from his parents' home and placed in a licensed foster home, group home or institution for children*** he "shall be entitled to attend the public schools of the school district in which said home is located..." (RSA 193:18-b). Thus "the school district in which

* If a child reaches his sixth birthday after September 30, he does not have to attend school until the following school year (RSA 193:1).

** Another state law - RSA 186-A:2 (supplement) - gives handicapped children an extra three (3) years to complete their high school education.

*** For the definition of foster home, group home or institution for children: RSA 193:18-a and 170:2 (supplement).

said home is located" would be responsible for providing the handicapped child with an effective program of special education.

Under a law enacted in 1973, when a child has been placed in a foster home, etc. by the Division of Welfare, or another licensed child-placing agency*, the school district may receive up to $200.00 in state aid to help pay for the child's education.[18]

Similarly, handicapped persons, between 6 and 21 years of age, who are patients in any public or private institution not only have a right to an education, but the patient's school district is liable for the state average tuition - RSA 8:41-C (supplement).

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* Other licensed child-placing agencies are: Child and Family Services of N.H. and Catholic Social Services.

[18] RSA 198:23-26 (supplement)

The Special Laws Providing Handicapped Children With A Right To An Effective Education.

> *It is hereby declared to be the policy of the state to provide the best and most effective education possible to all handicapped children in New Hampshire.*
>
> *- Chapter 186-A:1 of New Hampshire's Revised Statutes Annotated*

Some handicapped children will require special help if they are to remain in their regular classrooms; other handicapped children will require special classes. To ensure that these children are provided with an effective education, the New Hampshire State Legislature enacted Chapter 186-A. The intent of this Chapter is to ensure that every handicapped child, who is capable of benefiting from instruction, receives "the best and most effective education possible" (my emphasis).[19]

Under RSA 186-A:7, if a child is handicapped and requires a special program of education, the child's school district must, after an appropriate evaluation of the child's needs (e.g. IQ test, medical examination, etc. - see section entitled: Required Tests, Evaluations

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19. RSA 186-A:1 (supplement)

Examinations), assign the child to one of the following programs:

(1) The school district must place the child in an appropriate school program (e.g. regular classroom with supportive services or special class) that is maintained by the local school district; or

(2) The school district must send a teacher to the child's home for a minimum of five hours per week; (this is the least desireable alternative and should only be used when the child's physical, intellectual or emotional condition causes programs 1 and 3 to be unavailable)

(3) The school district must place the child in an appropriate program that is maintained by another

(3) cont'd

> school district or by a private organization, and pay the state's average tuition to that school district or private organization. (The State average tuition is computed annually. In 1973, it was $674.00 for an elementary school child and $971.00 for a high school student.)

If the tuition at the public or private school to which the handicapped child has been assigned exceeds the tuition provided by the child's school district (state average tuition), then the State Board of Education is responsible for paying any excess tuition costs.[20] However, due to the parsimony of the State Legislature and/or poor financial planning by the State Department of Education, the State may not have the monies to pay these costs.

Moreover, pursuant to an amendment to RSA 186-A:8, the State is only responsible for the handicapped child's excess tuition costs (the cost that exceeds the state average tuition) "when the (legislative) appropriation is sufficient so as not to jeopardize existing obligations undertaken by (the State Department of Education) in assisting handicapped children currently under special instruction."[21] In other words, the State Board of Education is only responsible for the excess tuition costs when the Legislature has given them sufficient funds to pay these costs. To date, the Legislature has never provided them with sufficient funds.

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[20] RSA 186-A:8, VI (supplement), as amended in the 1974 Special Session of the N. H. Legislature.

Therefore, before a parent agrees to the assignment of his child to a program of education where the tuition may be more than the state's average tuition, he should find out if the State will pay any excess tuition costs.[22] If the State cannot or will not pay such costs, the child's parents must then decide (1) whether to ask their local school board to pay the excess tuition cost,* or (2) whether to demand that their child be placed in a less expensive, but equally appropriate, program of education and training, or (3) whether to pay the excess tuition costs themselves.

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[21] RSA 186-A:8, VI (supplement), as amended in the 1974 Special Session of the N. H. Legislature.

[22] Contact Mr. Matthew Drewsky, Director, Special Education Section, N. H. State Department of Education, 105 Loudon Road, Building #3, Concord, New Hampshire 03301, tel # 271-3741.

According to RSA 193:3 (supplement) a parent may apply to their local school board for a change in their child's school assignment if that assignment "will result in a manifest educational hardship to that child." Any situation where the state average tuition is not sufficient to pay the child's actual tuition costs, and where the handicapped child may thereby be unable to enroll in the school program to which he has been assigned, would appear to result "in a manifest educational hardship to that child."

Parents and other child advocates should also remember that, according to state law, every handicapped child is entitled to "the best and most effective education possible" - RSA 186-A:1 (supplement).

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* Pursuant to RSA 186-A:8, III (supplement) the local school district may pay the excess tuition costs "when in the judgement of the school board the circumstances warrant it."

Clearly, a right to the state average tuition is not the same as a right to an effective education. In most cases, the actual cost of educating a handicapped child will far exceed the state average tuition. Thus in providing a child with the state average tuition, a school district may not provide the handicapped child with "the best and most effective education possible." In fact, the child may be unable to secure any education at all. Such a result is clearly at odds with Judge Bownes' ruling in the Vail case that "elementary and secondary education is a state-granted constitutional right";[23] as well as with the State's announced policy "to provide the best and most effective education to all handicapped children in New Hampshire."

Given the obvious difference between the right to an education and the right to the state average tuition, I believe a parent would be well-advised to consult with an attorney whenever the state average tuition will not guarantee the handicapped child his "opportunity of an education." As attorneys can be quite expensive, I would also recommend that parents join with other parents to share the legal costs of protecting their children's right to an effective education.

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23. Vail v. Board of Education of the Portsmouth School District, 354 F. Supplement 592, 602 (1973).

THE HANDICAPPED CHILD'S RIGHT TO A PRE-SCHOOL EDUCATION

> *The committee is aware that research in the education of pre-school children has demonstrated that early education can accelerate social and mental development of handicapped children. On the other hand, lack of educational attention to pre-school handicapped children tends to increase the negative effect of mental and physical disabilities as the child becomes older.*
>
> *- National Advisory Committee on Handicapped Children*[24]

In order for the handicapped child to attain his full potential, and to interact successfully with other children, his education should begin as soon as possible. Recognizing this fact, the New Hampshire State Legislature, in March, 1974, amended the state's laws to provide:

1. that a handicapped person can mean a child from 0-21 years of age. Thus, pre-school children who are handicapped may be eligible for special educational programs; and

2. "Schooling for handicapped children may commence at any age when approved by the state board of education." [25]

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[24] National Advisory Committee on Handicapped Children, cited in State Law and Education of Handicapped Children: Issues and Recommendations, Weintraub, F., Abeson, A., Braddock, D., The Council for Exceptional Children, p.21.

[25] RSA 186-A:2, I, II, III, and IV, and RSA 186-A:8, (supplement), as amended in the 1974 Special Session of the N.H. Legislature.

Previously, schooling for handicapped children began when the child reached the age of 5. Under a special exception, schooling for deaf children began at 4.

Pursuant to the authority just granted to them by the State Legislature, the State Board of Education has the authority to rule that schooling for handicapped children shall commence as soon as it can be determined by appropriate professionals - i.e. audiologists, psychologists or psychiatrists - that the infant or toddler is physically, intellectually or emotionally handicapped, and that the child can benefit from a program of special education or training.

Once the State Board of Education sets the age at which schooling for the pre-school child may commence, then the school district where the child resides "shall establish programs for handicapped children as approved by the State Board of Education, or shall pay tuition (state average tuition) to such an approved program maintained by another school district or by a private organization."[26]

Given the great importance of providing handicapped children with an educational headstart, the State Board of Education should act promptly to ensure that the educational needs of the handicapped child are met at an early age.

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[26] RSA 186-A:7 (supplement)

TO NOTIFY YOUR CHILD'S SCHOOL DISTRICT THAT YOUR CHILD MAY REQUIRE A PROGRAM OF SPECIAL EDUCATION

If you believe that your child needs a program of special education, then you should notify your school district (write to the superintendent of schools) that your child may require a program of special education. And ask your school district to arrange for your child to be evaluated by appropriate professionals.

A sample letter, which you can copy, is printed below. Make two copies of the letter. Keep one copy for yourself, and send the other certified mail with return receipt to your school superintendent. Keep the receipt.

your address
date

(Name) School Superintendent
(Name) School District
City, State, Zip Code

Dear Sir:

This is to notify you that our son, (daughter), (child's name), has been diagnosed as (describe handicap). He (she) was born on (month, day, year) and requires a program of education and training appropriate to his (her) abilities.

Would you please schedule (child's name) for an evaluation as soon as possible.

Thank you.

Sincerely,

TO IDENTIFY THE NATURE AND/OR SEVERITY OF A CHILD'S LEARNING PROBLEM(S)

> *Before a child who needs special educational help can be placed in a special class or program, he should be tested and evaluated to determine what kind of special class or program is most appropriate to the child's needs.*[27]
>
> *- Dr. William Lothrop*
> *Manchester Comprehensive Mental Health Center*

To be effective, a program of education and/or training must attend to the handicapped child's real needs. Thus, it is not enough that a handicapped child be enrolled in school; he must be enrolled in an educational program that is CONSISTENT WITH HIS REAL NEEDS. The following examples should help to explain this point:

(1) a child with a learning disability will be denied an effective education if he is mistakenly assigned to a special class for retarded children; or

(2) a retarded child will be denied an effective education if he is mistakenly

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27. Letter dated May 9, 1974 to Child and Family Services of N.H.

assigned to a special class for
emotionally disturbed children.

In other words, the effectiveness of any educational program will always depend on a correct identification of the nature and/or severity of a child's handicap.

In New Hampshire, in order to ensure that a handicapped child's educational needs are correctly identified, the State Board of Education requires that a child be tested and/or evaluated before he is placed in a special class or educational program for the physically, intellectually or emotionally handicapped.

The State Board has adopted certain test or evaluative procedures that the school district must follow. Copies of these procedures are included in this section. As these procedures are often confusing or vague, we have, wherever possible, attempted to provide reasonable interpretations or explanations.

Parents and other child advocates should become familiar with these testing or evaluative procedures. They are, like our state and federal laws, the tools we can use to protect the handicapped child.

PARENTS AND OTHER CHILD ADVOCATES SHOULD MAKE SURE THAT SCHOOL DISTRICTS ARE IN COMPLIANCE WITH THE PROCEDURES THAT HAVE BEEN ADOPTED BY THE STATE BOARD OF EDUCATION, AND THAT NO "SHORT-CUTS" ARE TAKEN WHEN A CHILD IS BEING EVALUATED OR EDUCATED.

If a parent or other child advocate feels that the school district's evaluation of the child was inadequate or incomplete, he may insist that the school district follow the standards that have been adopted by the State Board of Education, or he may have the child re-evaluated at an appropriate mental health clinic, hospital, or by a qualified professional (physician, audiologist, psychologist or psychiatrist). *A school district's failure to properly evaluate your child is certainly a good reason to demand a hearing before your local school board (see The Parents' Rights To A Hearing Before And After Placement) about the correctness or appropriateness of your child's school program.*

The Required Tests, Evaluations and Examinations

By law - RSA 186-A:7 (supplement), the State Board of Education is responsible for determining who is eligible for special education programs. In accordance with this legal responsibility, the State Board of Education has promulgated certain standards that local districts must follow in determining whether a child is handicapped and requires a program of special education. Thus, by law, a child cannot be placed in a program of special education unless these procedures are followed.

The standards that have been adopted by the State Board of Education are intended to ensure that the cause or causes of a child's learning problem(s) are correctly identified. *Thus before any child may be assigned to a special class, school or educational program for the handicapped, the law requires that the following tests, examinations, evaluations or consultations be completed.* (Note: Any or all of the procedures printed below may be waived by the State Department of Education. However, such a waiver can only be made on a case by case basis; and then only for a good and sufficient reason. Parents and other child advocates should insist on a written explanation if any of the following procedures are not followed.)

1. INTELLECTUALLY HANDICAPPED. Before a child may be assigned to a special class, school or educational program for the intellectually handicapped, the school district must take the following steps:

   A. "Intelligence Quotient" (I.Q.) must be determined by a qualified (psychological) examiner on an individual test of mental ability."[28]

   The State Department of Education recommends that one of the following IQ tests be used: Revised Stanford Binet or

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[28] "Standards for the Education of Intellectually Handicapped", a publication of the N.H. State Department of Education, Special Education Section.

Weschler Intelligence Scale (WISC)
for Children. [29]

Comments: *A "qualified (psychological) examiner" would appear to be a psychologist who has been certified by the N.H. State Board of Examiners of Psychologists (see RSA 330-A:1 and 11), or a specialist who has been licensed by the State Board of Education to assess a child's intellectual functioning (see requirements for a "Specialist in Assessment of Intellectual Functioning" under State Standards).*

B. 'When indicated, appropriate medical examinations shall be required." [30]

Comments: *Only a physician can determine if a medical examination is not "indicated". Therefore we submit that a medical examination should always be required, unless a physician, after a full review of the facts, finds that such an examination is unnecessary.*

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29. IBID, p.2
30. IBID, p.2

The "medical examination" should be more than a general physical. It should be an examination designed to identify any physical cause or causes for a child's learning problems. For example, a child who has a hearing problem may appear to be slow, and even score very low on an achievement or verbal test.

In addition, the physician may determine that further testing is needed, and he may want to refer a child to an audiologist, ophthalmologist or neurologist.

The "medical examination" should always be done by a licensed physician; not the school nurse.

C. "A psychiatric or psychological consultation shall be provided for all children considered for admission to individual instruction,

itinerant teaching, special
classes, or schools for the
intellectually handicapped."[31]

Comments: Our interpretation of this standard is that a qualified psychiatrist or psychologist must actually examine each child before he or she is placed in a special class or educational program for the intellectually handicapped.

D. "Reports of all examinations
and consultations should be
in a case study for consideration
at a staff conference."[32]

E. "No special education placement
should be made, or program commenced until a staff conference
is held."[33]

Comments: According to the standards published by the State Department of Education, a staff conference

> *"should include (the child's) teachers, qualified psychologist, a school social worker, the school*

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31. IBID, p.2
32. IBID, p.2
33. IBID, p.2

Comments: (cont'd)

> nurse, the special educator, or a representative from the special school, and other equivalent professional persons as designated by the superintendent of schools.
>
> In districts which do not employ the personnel listed in the above paragraph, children may be declared eligible for special instruction or placement on the basis of case studies and staff conferences conducted cooperatively by school personnel and approved social agencies and/or mental health resources." 34

The purpose of the staff conference is to "fully review" the information (results of IQ tests, medical exams and psychiatric consultation) that is in the child's "case study" (file). The objective of the conference is to ensure that every possible explanation for a child's learning problem has been carefully reviewed, and that the explanation that is finally decided upon, as well as the recommended educational program, are both correct.

Parents should always ask for a description of who attended the staff conference and what information they reviewed.

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34. IBID, p.2

2. EMOTIONALLY HANDICAPPED. Before a child may be assigned to a special class, school or educational program for the emotionally handicapped, the school district must take the following steps:

A. "When indicated, appropriate medical examinations shall be required." [35]

Comments: Only a physician can determine if a medical examination is not "indicated". An examination should always be required before placement in a special class or educational program for the emotionally handicapped, unless a physician (not the school nurse) finds, after a careful review of the child's case history, that a medical examination is not necessary.

The medical examination should be more than a general physical. It should be an examination that is designed to discover any organic causes for a child's emotional problem.

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[35] "Standards for the Education of the Emotionally Handicapped", a publication of the N.H. State Department of Education, Special Education Section. The power to set standards had been granted to the State Board of Education by state law - RSA 186-A:7 (supplement).

B. "Psychiatric or psychological consultation shall be provided for all children considered for admission to individual instruction, itinerant teaching, special classes or schools for the emotionally handicapped." [36]

Comments: *Our interpretation of "a psychiatric or psychological consultation is that a qualified psychologist or psychiatrist must actually examine your child.*

C. "Reports of all examinations and consultations" should be in case study for consideration at staff conference." [37]

Comments: *Parent or child advocates should make sure that when a staff conference was held to decide what educational programs was best suited for their child, all available reports, exams or test results were in the "case study" and carefully reviewed at the "staff conference".*

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36. IBID, p.2
37. IBID, p.2

D. "Eligibility for individual instruction, itinerant teacher, or special classes or schools shall be determined by a case study fully reviewed by professional personnel in a staff conference. In general, professional personnel should include teachers, qualified psychologist, a school social worker, the school nurse, the special educator, or a representative from the special school, and other equivalent professional persons as designated by the superintendent of schools.

In districts which do not employ the personnel listed in the above paragraph, children may be declared eligible for special instruction or placement on the basis of case studies and staff conferences conducted cooperatively by school personnel and approved social agencies and/or mental health resources."[38]

Comments: The purpose of the staff conference is to "fully review" the information (results of

[38] IBID, p.2

Comments: (cont'd)

medical exams and psychiatric or psychological consultation) that is in the child's "case study". The objective of the conference is to ensure that every possible explanation for a child's learning problem has been carefully reviewed, and that the explanation that is finally decided upon, as well as the recommended educational program, are correct.

Parents should always ask for a list of the persons who attended the staff conference, and the information they reviewed.

3. PHYSICALLY HANDICAPPED. Before a child may be assigned to a special class, school or educational program for the physically handicapped, the school districts must take the following steps:

A. "Placement in special education programs shall be based upon psychological, educational, and when warranted, physical examination." [39]

Comments: A "psychological examination" means that a qualified psychologist (see RSA 330-A:1 and 11) must actually exam each child. The purpose of this psychological examination is to determine if the child has a "learning disability", or if his learning problem(s) may be caused, in part, by an emotional problem.

An "educational examination" would include appropriate achievement and verbal tests.

Unless a physician (not the school nurse) finds, after a careful review of the child's medical history, that a physical examination

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[39] "Standards for the Education of the Physically Handicapped", a publication of the N.H. State Department of Education, Special Education Section. The power to set standards had been granted to the State Board of Education by state law - RSA 186-A:7 (supplement).

__*Comments:*__ *(cont'd)*

is not "warranted", I submit that parents and other child advocates should insist that such an examination be required before placement in a special class or educational program.

> B. "The psycho-educational examination should be followed by a staff conference of appropriate professional personnel to determine eligibility, placement and programming for the child." [40]

__*Comments:*__ *"Appropriate professional personnel" would include those persons who administered the psychological, physical and educational examinations.*

Parents and other child advocates should make sure that the professional personnel who participate in the "staff conference" carefully review all the information that was relevant and was available about the child. The purpose of the "staff conference" is to ensure that every possible explanation or cause(s) of a child's learning problem(s) is considered, and that the

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40. IBID, p.3

Comments: (cont'd)

explanation that is finally decided upon, as well as the proposed educational program, are both correct.

RE-EVALUATIONS

> *Every child placed in a special educational problem should be thoroughly re-evaluated each year at least.*
>
> *- The National Council for Exceptional Children*[41]

> *Continued placement in [Special Education] programs should be contingent upon an ongoing process of evaluation by the professional personnel involved.*
>
> *- The N.H. State Department of Education*[42]

Most handicaps are subject to change. A child with an emotional problem, for example, may, after therapy, be ready to return to his regular class. Or a child may make such progress in a particular educational program that he will simply "outgrow" the program, and his continued development will require a placement in a more advanced program. Of course, the opposite might also occur - a particular program may slow or hinder the child's development.

To ensure that any change in the severity and/or nature of a child's handicap are noticed; and that

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41. Weintraub, Abeson, Braddock, State Law and Education of Handicapped Children: Issues and Recommendations, Council for Exceptional Children, p.39.
42. "Standards for the Education of (Intellectually, Emotionally and Physically) Handicapped Children", published by the N.H. State Department of Education pursuant to RSA 186-A:7 (supplement).

the child's educational program reflects such changes, the State Board of Education requires school districts to re-evaluate children who are in special classes or educational programs "periodically"; and "in no case should a period of more than three years elapse between evaluations."[43]

We would suggest that parents and other child advocates interpret "periodically" to mean annual re-evaluations.[44] And that whenever a parent or child advocate believes that a child's handicap has undergone some change (positive or negative), he should see that the child is re-evaluated by a qualified professional - physician, psychiatrist or psychologist.

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43. "Standards for the Education of (Intellectually, Emotionally and Physically) Handicapped Children", published by the State Department of Education pursuant to RSA 186-A:7.
44. In another publication of the N.H. State Department of Education, "Annual Statement of Placement and Parental Consent to Placement", the Department, on page 3, calls for annual reconsideration of the child's placement.

PLACEMENT IN A SPECIAL CLASS OR EDUCATIONAL PROGRAM

> *Placement in a regular public school class is preferable to placement in any other type of program of education and training."*
>
> *- N.H. State Department of Education* [45]

Under the Standard promulgated by the State Department of Education, after a handicapped child has been evaluated and before he is placed in a special class or educational program, "parent and school officials should meet together to discuss the placement, and agreement of the parents (to the proposed placement) should be secured." [46]

At least two (2) federal courts have ruled that the school district must notify the parents before placing a child in a special class or educational program.[47]

Moreover, as New Hampshire law - RSA 193:3 (supplement) permits a parent to ask their local school board and the State Board of Education to overrule the superintendent's decision to place (or not to place) their child in a special class or educational program, the failure to notify the parents of the assignment of their child to a special class could deny the parents their legal right, under RSA 193:3 (supplement), to appeal that assignment to their school board or the State Board of Education. Thus, I submit that a handicapped child should not be placed in a special class or educational program until the child's parents have been notified of the proposed placement. And if the parents object to that placement, then the school district should allow the child to remain in his regular or special classroom until his/her parents have exhausted all their appeals (e.g. appeal to local school boards, State Board of Education).[48]

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[45] "Standards for the Education of (Intellectually, Emotionally and Physically) Handicapped Children", published by the N.H. State Department of Education pursuant to their responsibility under RSA 186-A:7 (supplement).

[46] IBID

[47] Mills v. Board of Education of the District of Columbia, 348 F. Supp. 866 (1972), Pennsylvania Association of Retarded Children v. Pennsylvania, 343 F. Supp. 279 (1972).

The superintendent of your child's school district is responsible for placing your child in an appropriate school program. According to the State Department of Education,

> "Responsibility for the placement and/or dismissal of a handicapped child in a special class operated by the local school district shall rest with the administrative head of the school district (the superintendent of schools), or the person assigned (by the superintendent) to represent him."[49]

I believe that a local school district's responsibility for the placement of a handicapped child also extends

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48. See also RSA 43:1-8
49. "Standards for the Education of (Intellectually, Emotionally and Physically) Handicapped Children", published by the State Department of Education pursuant to RSA 186-A:7 (supplement).

to those children who must be placed in a private school or in another school district. The child's school district must do more than merely provide these children with the state's average tuition; the school district must also assist the child's parents to find the best possible private or public school program for their child. To do anything less would appear to be a violation of RSA 186-A:6 and 7 (supplement), as well as RSA 189:1-a (supplement).

Recently, the State Department of Education published a form entitled: "ANNUAL STATEMENT OF PLACEMENT AND PARENTAL CONSENT TO PLACEMENT." (A copy of this form can be found in the section entitled: State Standards for the Education of Handicapped Children.) Presumably, every school district is using this "Annual Statement". According to the State Department of Education, the statement is intended

> "to protect the school district by documenting its efforts towards giving the child due process in considering the child's educational needs and assigning the child to an appropriate program. It

> is intended to protect the parent by informing him/her of the who, what, when, why, where and how of his/her child's assignment (or non-assignment) to a special education program."[50]

Parents should be careful not to sign any "agreement" until they are convinced that the proposed placement is the best one for their child.

They should make certain that they understand just what type of education their child will be receiving. They should ask their doctor, or anyone else who has worked with the child if they feel that the proposed program is the right one for the child to be in.

Parents know their child better than anyone else. If they feel that the class or training program recommended by the school is not the best one for their child; that he would learn more or be helped more by another type of program, then they have a right to disagree with the school's plan. They should demand a hearing before their local school board. The school board or the State Board of Education has the power to overrule the superintendent and to place the child in a different educational program. (See the following section: The Parents' Right To A Formal Hearing Before And After Placement.)

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[50] Cover letter attached to "Annual Statement of Placement and Parental Consent to Placement", published by the N.H. State Department of Education.

THE PARENTS' RIGHT TO A FORMAL HEARING BEFORE AND AFTER PLACEMENT

> *Due process of law requires a hearing prior to exclusion, termination or classification into a special program.* (emphasis added)
>
> *- United States District Court, District of Columbia* [51]

> *Any person having custody of a child may apply to the school board for relief if he thinks the attendance of the child to the school or special class for handicapped children to which he has been assigned will result in a manifest educational hardship to the child and, if the person having custody of the child is aggrieved by the decision of the school board, he may apply to the state board of education and the state board of education, after investigating the case and giving notice to the school board, may order such child to attend another school in the same district if such a school is available, or to attend school in another district.*
>
> *- Chapter 193:3 of New Hampshire's Revised Statutes Annotated*

After a handicapped child has been evaluated, the child's school district is responsible for placing the child in an effective educational program. Under state law, an educational program can be: placement in a regular classroom, a minimum of five hours of home instruction per week, or placement in a special class or program for handicapped children. (See "Standards for the Education of (Intellectually, Emotionally and Physically) Handicapped Children" and RSA 186-A:7 (supplement).

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[51] Mills, et al, v. Board of Education of the District of Columbia, et al, 348 F. Supp. 866 (1972).

Parents have a right to disagree with the school district's decision regarding their child, and they have a right to ask the local school board to overrule the school district and place the child in another program.[52]

State law - RSA 193:3 (supplement) - provides that a parent "may apply to the school board for relief" if he thinks that his/her child's placement "will result in a manifest educational hardship to the child." I submit that the failure to provide a handicapped child with "the best and most effective education possible" - see RSA 186-A:1 (supplement) - will result in a "manifest educational hardship" for that child.

In addition, RSA 43:1-5 requires local school boards to hold formal hearings whenever they are asked to decide "any question affecting the rights or claims of individuals." Thus, whether a parent applies to their school board under RSA 193:3 (supplement) or RSA 43:1-5, the parent is legally entitled to a formal hearing before their local school board.

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[52] See RSA 43:1-5 and/or RSA 193:3 (supplement).

NOTE: Parents should always attempt to appeal under RSA 193:3 (supplement) rather than RSA 43:1-5. For RSA 193:3 (supplement) provides a parent with the right to appeal the school board's decision to the State Board of Education, and RSA 43:1-5 does not. Thus always start with RSA 193:3 (supplement), and use the right to appeal provided in RSA 43:1-5 only when you cannot convince your school board or the State Board that your child's school assignment results in a "manifest educational hardship" to the child. When you write to your school board to ask for a hearing, state that your appeal is based on RSA 193:3 (supplement). See page 57 for a sample letter that may be used to claim your right of appeal under RSA 193:3 (supplement).

Under the procedures set forth in RSA 193:3 (supplement), if the parents are dissatisfied with the decision that is rendered by the school board, they may appeal that decision to the State Board of Education.[53] The State Board can overrule the school board, and place the child in another school program.[54] Finally, if the decision of the State Board of Education is not satisfactory, the parents may want to consider taking the matter into a state or federal court.

Given that every child is unique and that the facts in a particular case are rarely the same, we are reluctant to make any general statements as to when a parent should demand a formal hearing before their school board. However, we will say this much:

> *PARENTS SHOULD NOT AGREE WITH THE SCHOOL DISTRICT'S DECISION UNLESS THEY ARE CONVINCED THAT THE PROPOSED EDUCATIONAL PROGRAM WILL MEET THEIR CHILD'S EDUCATIONAL NEEDS.*

Therefore, before agreeing with the school district as to the proposed or existing placement of their child, parents should make sure they understand just what kind of education their child will be receiving. The parents should ask the child's doctor or anyone else who has worked with their child if they feel that the proposed program is the right one for their child. And finally, if the parents feel that the school district's evaluation of their child was inadequate or incomplete, they should have the child re-evaluated at a mental health clinic, hospital, or by a qualified professional (physician, psychiatrist, or psychologist).

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[53] RSA 193:3 (supplement)
[54] RSA 193:3 (supplement)

The local school board must grant you a formal hearing.[55] The purpose of such a hearing is not to "hassle" the school superintendent or the school psychologist but to ensure that their decision, to place or not to place their child in a program of special education, a decision that is extremely important for the child, is subject to a very careful review. The school board will respect the parents' concern for their child's well-being, and will welcome the opportunity to review with them the school district's decision to place their child in a special class or school for handicapped children.

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55. RSA 193:3 (supplement) and/or RSA 43:1-5

Your Procedural Rights At The Hearing

The parents and their child are protected by a number of procedural rights at this hearing. We have listed below some of the rights that a parent has under State Law, or may have under the United States Constitution:*

(1) Under state law - RSA 43:2, a parent has the right to be notified of the time and place of the hearing at least 14 days before the hearing is held.

(2) Under state law - RSA 43:4, all the parties and witnesses at the hearing shall testify under oath.

(3) Under state law - RSA 43:4, a parent has the right to have expert witnesses (the child's physician, psychologist, etc.) testify in the child's behalf.

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* When I say you may have a certain right that means that courts in other states have given parents a certain right, and that courts here in New Hampshire would be likely to make the same decision, if given the opportunity.

(4) Under state law - RSA 43:3, the school board's decision shall be in writing and will have no force or effect until it is recorded in the town records.

(5) A parent may be represented by an attorney or some other person at the hearing. (e.g. psychologist, special education teacher, psychiatrist, social worker or physician)

(6) At least two Federal District Courts have ruled that the Due Process Clause in the United States Constitution provides a parent with the right to review his child's school records; including the results of any tests or reports upon which the decision to place the child in a special class or school may be based.[56]

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[56] Pennsylvania Association for Retarded Children v. Commonwealth of Pennsylvania, 343 F. Supp. 279 (1972), Mills et al v. Board of Education of the District of Columbia, 348 F. Supp. 866 (1972).

(7) At least two Federal District Courts have ruled that the Due Process Clause in the United States Constitution gives parents the right to demand that any official, employee or agent of the public school system, whom they believe may be able to provide some useful information regarding their child, be present at the hearing.[57]

(8) Under state law - RSA 193:3, a parent has the right to appeal the school board's decision. A parent should write a short letter, explaining his objections to the school board's decision, to the Commissioner of Education, New Hampshire State Board of Education, 410 State House Annex, Concord, New Hampshire 03301. Send the letter certified mail with a return receipt requested. Keep a copy of the letter and the signed receipt you get back from the Commissioner.

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[57] IBID

To request a formal hearing before your local school board, send a copy of the letter printed below to the chairman of the local school board. Send the letter certified mail with return receipt. Keep a copy of the letter and the signed receipt you will get back when the school board receives your letter.

your address
date

(Name) Chairman, School Board
(Name) School District
City, State, Zip Code

Dear Sir:

This is to advise you that we, the parents of (child's name) believe that his (her) attendance at (name or describe the program) will result in a manifest educational hardship to my child.

We, therefore, in accordance with RSA 193:3 and RSA 43:5 request a hearing on the assignment of our child.

Would you please notify us as to the time and place of this hearing within the limit specified in RSA 43:2.

Sincerely,

MONITORING THE SPECIAL CLASS OR EDUCATIONAL PROGRAM

Children, being children, cannot protect their own rights. They must depend on their parents and other child advocates to protect them from those persons, agencies and institutions who would negligently or intentionally take advantage of their vulnerability and deprive them of their rights.

In order to ensure that a handicapped child receives an "effective" education will require that parents and other child advocates closely monitor the form and the content of the child's educational program.

By form, we mean that close attention must be paid to the ratio of students to teachers; (e.g. how children are in the class - how many teachers) the difference in ages between the students in a particular class (your child is placed with much younger children); and the number of hours a child is actually in school.

By content, we mean that parents and other child advocates should monitor the quality of the education a handicapped child is receiving. Stated another way, the parents should make sure that their child is learning something; that the program of education is not mainly gym and study periods, or the same material repeated over and over.

Under state law - RSA 186-A:7 (supplement), the State Board of Education is responsible for approving every public and private school program for the handicapped. Pursuant to this legal responsibility, the State Board of Education has promulgated certain Standards that special education programs must satisfy in order to be approved.

These Standards are not guidelines. Except where the Standards permit an exception to be made, I submit that every school district and every private school must meet each and every one of the Standards that has been adopted by the State Board of Education. Failure to comply with any of these Standards would mean that a school district's programs could not be approved; and the school district would then be guilty of violating RSA 186-A:7 (supplement): "A school district shall establish programs for handicapped children as approved by the State Board of Education, or shall pay tuition costs to such an approved program..." (my emphasis).

Parents and other child advocates must become familiar with these Standards; for they are tools that can be used to ensure that a child is receiving an effective education. If a school district is not obeying the educational Standards that have been adopted by the State Board of Education, a parent or other child advocate should immediately inform the school superintendent of this fact. If the superintendent fails to respond to their complaint, they should contact the State Department of Education. They should also inform their local school board of the superintendent's failure to see that the Standards regulating the education of handicapped children are obeyed. They may also want to complain to their local state representative or state senator, and/or to their local newspaper. Put the complaints in writing, send the letters registered mail with return receipt requested, and always keep a copy of the letters.

If a parent feels that the school district's failure to comply with the Standards that have been adopted by the State Board of Education denies their child the "most effective education possible" (see RSA 186-A:1 supplement), the parents may ask their local school board to assign the child to another school or class (see RSA 193:3 supplement) or to order the superintendent to immediately remedy the alleged failure to obey the Standards. Finally, a parent may have to consider bringing a legal action against their local school district and/or the State of New Hampshire.

To help parents and other child advocates to become effective advocates for the handicapped child, some of the Standards promulgated by the State Board of Education are printed below.

Complete copies of these Standards are included in the Handbook. Whenever possible, explanations and/or reasonable interpretations of these Standards have been provided.

I. INTELLECTUALLY HANDICAPPED

Records

A. "Cumulative records should be kept containing educational, health, medical, psychological, records, and progress reports. These records should be accessible to the teacher and kept in a locked file." [58]

Comments: *Parents and other child advocates should make sure that the school board has adopted strict rules regarding the confidentiality of these records. Otherwise, potentially damaging, and perhaps inaccurate, information may be given to the child's future employers, law enforcement agencies, etc.*

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58. "Standards for the Education of Intellectually Handicapped Children", published by the N.H. State Department of Education, p.3.

Class Size and Age Range

A. "The self-contained special classes for educable intellectually handicapped children shall not be approved when the enrollment exceeds fifteen at the elementary, junior and/or senior high school level."[59]

Comments: *A self-contained class is a class where one (1) teacher is with the children for the entire school day. In a departmentalized program, there is a different teacher for each subject - math, science, english, etc.*

B. "A departmentalized special education program for intellectually handicapped children shall not be approved when the enrollment exceeds thirty at the elementary, junior and/or senior high school level."[60]

Comments: *This particular standard makes no sense at all. Presumably, it is designed to*

[59] IBID, p.3

[60] IBID, p.3

Comments: (cont'd)

control the ratio of students to teachers; but the second part of the ratio - number of teachers - is not stated. In other words, in a self-contained class there cannot be more than fifteen (15) students for one teacher. However, the above standard implies that in a departmentalized program (a program with a different teacher for each subject), no matter how many teachers you may have in the program, you can only have thirty (30) intellectually handicapped children.

C. "A departmentalized special education program shall ensure that students are properly and appropriately placed and that no more than fifteen intellectually handicapped students are in a class with the special education teacher at any time. Exceptions may be made for gym, music, and other similar activities. The Special Education teacher as the specialist shall have the direct responsibility

C. (cont'd)

for the children assigned to the program. The program should demonstrate evidence of cooperation, coordination, and special appropriate preparation for all staff involved in the special education program."[61]

D. "Self-contained classes for trainable intellectually handicapped children shall not be approved when the enrollment exceeds ten."[62]

Comments: *Note that the student - teacher ratio is reduced in classes for children who have been identified by qualified professionals as being trainable intellectually handicapped children.*

E. "Pre-adolescent and adolescent pupils should be grouped separately."[63]

Comments: *Black's Law Dictionary states that adolescence commences for females at twelve years (12) and for males at fourteen years (14).*

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61. IBID, p.3
62. IBID, p.4
63. IBID, p.4

F. "Pupils in classes for the educable intellectually retarded should be grouped by chronological age, with an age range of not more than four years." [64]

Comments: *In other words, children who are 12 years old should not be grouped with children who are 7 years of age. Similarly, a child who is 14 years old but reads at a 3rd grade level should not be grouped with children who are also 13 years old but who are reading at a 7th grade level.*

G. "Pupils in trainable intellectually handicapped classes should be grouped according to chronological age, with an age range of not more than six years." [65]

Comments: *In other words, children who are 14 years old should not be grouped with children who are 7 years of age. Similarly, a child who is 14 years old but reads at a 1st grade level should not be grouped with children who are also 14 years old but who are reading at an 8th grade level.*

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[64] IBID, p.4

[65] IBID, p.4

H. "DEVIATIONS FROM THE ABOVE PATTERN (A-G) MAY BE APPROVABLE WHEN IT IS EVIDENT TO THE STATE DEPARTMENT OF EDUCATION THAT AN ADEQUATE SPECIAL EDUCATION PROGRAM IS MAINTAINED." [66]

Comments: *Parents and other child advocates should make sure that no deviation is allowed unless they are convinced that the educational program is indeed adequate. They should insist on an explanation, in writing, from the N.H. State Department of Education as to why a school program has been allowed to deviate from any of the State's Standards.*

Curriculum

A. "The school district or special school maintaining the special class or program has responsibility for the development and administration of a special course of study, including pre-vocational training and guidance leading to the development of the competencies required in daily living." [67]

Comments: *This particular state regulation requires that special programs include in their*

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66. IBID, p.4
67. IBID, p.4

Comments: (cont'd)

curriculum, courses that will teach the intellectually handicapped child the basic skills that are required in daily living (i.e. hygiene, money management, understanding of basic laws and rules of social conduct).

Housing

A. "Classrooms for the educable and trainable intellectually handicapped children should be located in a regular school building housing children of comparable ages.

B. The classroom should be of sufficient size to accommodate adequate equipment and provide space for the proper learning activities of the various class levels. In general, special classrooms should be comparable to other classrooms in the school."[68]

Equipment and Instructional Materials

A. "Classes for the educable and trainable intellectually handicapped should be provided with appropriate equipment

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[68] IBID, p.4

Equipment and Instructional Materials (cont'd)

A. (cont'd)

and instructional materials adequate to develop a special educational program."[69]

Supervision and Administration

A. "Length of the school year shall be 180 days.

B. The length of the school day for the intellectually handicapped should exceed 5¼ hours, including recess but not lunch periods. Exceptions can be made in specific cases at the discretion of the superintendent for individuals of limited physical and emotional stamina."[70]

Comments: *Parents and other child advocates should make sure that the superintendent's decision to reduce the number of hours in a child's day is based on sound medical or psychological evidence; that a qualified professional - physician, psychologist or psychiatrist - has been consulted.*

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69. IBID, p.4
70. IBID, p.4-5

C. "The school district should provide adequate supervision for the program for educable and trainable intellectually handicapped. The plan should include the superintendent or his representative, the building principal, and special supervisors who should work cooperatively to supervise the program and integrate it into the total school program.

D. Every school board shall annually report to the State Department of Education on census forms provided by that Department the number of handicapped children in its school district. A later report shall be made when any other handicapped child shall be located in said district."[71]

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[71] IBID, p.5

Teacher Qualifications

A. "The special teacher of children under this program should have:

1. Graduated from a four year baccalaureate program approved for the preparation of special education teachers.

2. A teacher's certificate from the state of New Hampshire.*

3. Course work in the following areas:

   a. Nature and Needs of the Mentally Retarded.

   b. Occupational Education and/or Curriculum Development for the Mentally Retarded.**

   c. Methods of Teaching the Mentally Retarded

   d. Introduction to Exceptional Children.

   e. Handicraft Methods.***

   f. Observation and Supervised Teaching of the Mentally Retarded.

* Should include twelve semester hours or course work in the special area, six semester hours of supervised student teaching in the area of speciality or one year of successful teaching experience in the special area."[72]

** Secondary level teachers only.

*** Trainable level teachers only.

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72. IBID

II. EMOTIONALLY HANDICAPPED

The following standards have been adopted by the State Board of Education pursuant to its responsibility under RSA 186-A:7 (supplement). If any public or private school program fails to comply with these standards, it is violating the state's laws - RSA 186-A:5 (supplement) and RSA 186-A:7 (supplement).

Records

A. "Cumulative records should be kept containing educational, health, medical, psychological records, and progress reports. These records should be accessible to the teacher and kept in a locked file." [73]

Comments: *Parents and other child advocates should insist that local school boards adopt*

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[73] "Standards for the Education of Emotionally, Handicapped Children", published by the N.H. State Department of Education, p.3.

Comments: *(cont'd)*

and apply strict rules regarding the confidentiality of these records. Otherwise, potentially damaging, and perhaps inaccurate information, may be given to a child's future employers, law enforcement agencies, etc.

Class Size and Age Range

A. "The self-contained special classes for emotionally handicapped children shall not be approved when the enrollment exceeds ten at the elementary, junior and/or senior high school level." [74]

Comments: *A self-contained class is a class where one (1) teacher stays with the children for the entire school day. The children do not have a different teacher for math, English, science, etc.*

B. "Plans for the operation of a departmentalized special education program for emotionally handicapped children shall be approved by the State Board of Education.

74. IBID, p.3

C. A departmentalized special education program shall insure that students are properly and appropriately placed and that no more than ten emotionally handicapped students are in a class with the special education teacher at any one time. Exceptions may be made for gym, music, and other similar activities. The special education teacher as the specialist shall have the direct responsibility for the children assigned to the program. The program should demonstrate evidence of cooperation, coordination, and special appropriate preparation for all staff directly involved in the special education program." [75]

__Comments:__ A departmentalized program is one where the students have a different teacher for each major subject: English, math, science, social studies, etc.

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[75] IBID, p.3

D. Pre-adolescent and adolescent pupils should be grouped separately.[76]

Comments: Black's Law Dictionary defines adolescence as beginning at age twelve (12) for females and age fourteen (14) for males.

E. "Pupils in classes for the emotionally handicapped should be grouped by chronological age and academic achievement level with an age range of not more than three years.

Comments: In other words, children who are 11 years old should not be grouped with children who are 7 years of age. Similarly, a child who is 13 years old but reads at a 3rd grade level should not be grouped with children who are 13 years old and who are reading at a 7th grade level.

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[76] IBID, p.3

F. DEVIATIONS FROM THE ABOVE PATTERN, (A-E), MAY BE APPROVABLE WHEN IT IS EVIDENT TO THE STATE DEPARTMENT OF EDUCATION THAT AN ADEQUATE SPECIAL EDUCATION PROGRAM IS MAINTAINED."[77]

Comments: The State Department of Education must approve each deviation from any of the above standards.

Parents and other child advocates should require the State Department to provide written explanations, describing why a particular program for the emotionally handicapped has been approved if it is not in compliance with the Department's standards.

Curriculum

A. 'The school district or special school maintaining the special class program has the responsibility for the development and administration of a special course study appropriate to the academic potential and interest of the children involved."[78]

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77. IBID, p.3
78. IBID, p.4

Housing

A. "Classrooms for the emotionally handicapped children should be located in a regular school building housing children of comparable ages.

B. The classroom should be of sufficient size to accommodate adequate equipment and provide space for the proper learning activities of the various class levels. In general, special classrooms should be comparable to other classrooms in the school."[79]

Equipment and Instructional Materials

A. "Classes for the emotionally handicapped should be provided with appropriate equipment and instructional materials adequate to develop a special educational program."[80]

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79. IBID, p.4
80. IBID, p.4

Supervision and Administration

A. "Length of the school year shall be 180 days.

B. The length of the school day for the emotionally handicapped should exceed 5¼ hours, including recess but not lunch periods. Exceptions can be made in specific cases at the discretion of the superintendent for individuals of limited physical stamina." [81]

Comments: *Parents and other child advocates should insist that any reduction in a child's school day because he has "limited physical stamina" is based on sound medical evidence; that a physician has recommended such a reduction on the child's school day.*

D. "The school district should provide adequate supervision for the program for emotionally handicapped. The plan should include the superintendent or his representative, the building

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[81] IBID, p.4

D. (cont'd)

principal, and special supervisors who work cooperatively to supervise the program and integrate it into the total school program.

E. Every school board shall annually by October first report to the State Department of Education on census forms provided by that Department the number of handicapped children in its school district. A later report shall be made when any other handicapped child shall be located in said district."[82] (186-A:4)

Teacher Qualifications

A. "The special teacher of children under this program should have:

(1) Graduated from a four-year baccalaureate program approved for the preparation of special education teachers.

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[82] IBID, p.5

Teacher Qualifications (cont'd)

A. (cont'd)

(2) A teacher's certificate from the State of New Hampshire.

(3) Endorsement for teaching the emotionally handicapped."[83]

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83. IBID, p.5

III. PHYSICALLY HANDICAPPED

The following standards have been adopted by the State Board of Education pursuant to their responsibility under RSA 186-A:7 (supplement). If any public or private school program fails to comply with these standards, it is violating the state's laws - RSA 186-A:5 (supplement) and RSA 186-A:7 (supplement).

Records

A. "Cumulative records should be kept containing educational, health, medical, psychological records, and progress reports. These records should be accessible to the teacher and kept in a locked file." [84]

Comments: Parents and other child advocates should make sure that school boards adopt strict rules regarding the confidentiality of these records.

These records should be used only for "educational purposes", and not made available to employers, law enforcement agencies, colleges, etc.

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84. "Standards for the Education of Physically Handicapped Children", published by the N.H. State Department of Education.

Class Size and Age Range

A. 'The self-contained special classes for physically handicapped children shall not be approved when the enrollment exceeds fifteen at the elementary, junior and/or senior high school level."[85]

Comments: A self-contained class is one where one (1) teacher remains with a particular class for the entire day. A departmentalized program is one where there are different teachers for various subjects - English, math, science, etc. Thus, in a departmentalized program, the children will have different teachers throughout the day.

B. "Specific plans detailing a departmentalized special education program for physically handicapped children shall be approved no less than yearly by the State Board of Education."[86]

Comments: The inadequacy of the Standards for the Education of Handicapped Children can be illustrated by the fact that annual approval of a handicapped child's educational program

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85. IBID, p.4
86. IBID, p.4

Comments: (cont'd)

is only required when the child is physically handicapped and in a departmentalized program. Presumably, the State Department of Education feels that annual approval is not necessary when a child is emotionally handicapped or intellectually handicapped, or even physically handicapped and in a self-contained program.

C. "A departmentalized special education program shall insure that students are properly and appropriately placed and that no more than physically handicapped students than are allowed in self-contained special classes are in a class with the special education teacher at one time (sic). Exceptions may be made for gym, music and other similar activities. The special education teacher as the specialist shall have the direct responsibility for the children assigned to the program. The program should demonstrate evidence of cooperation, coordination, and special appropriate preparation for

C. (cont'd)

all staff directly involved in the special education program."[87]

Comments: A departmentalized program is one where the major subjects - math, English, science, etc. are taught by different teachers. Thus, unlike a self-contained program, no one teacher is with the same children for the entire day.

This standard means that except for deaf children (see D) no more than 15 physically handicapped children can be in one class in a departmentalized program.

D. "Self-contained classes for deaf children shall not be approved when the enrollment exceeds eight. Schooling for deaf children begins at age four if the child is capable."[88]

Comments: A child's capacity for learning can only be determined by qualified professionals. Thus parents and other child advocates should make sure that a decision not to provide schooling

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[87] IBID, p.4
[88] IBID, p.4

Comments: (cont'd)

to a deaf child is based on competent evidence - the findings and recommendations of a qualified professional - audiologist, psychologist, etc.

E. "Pre-adolescent and adolescent pupils should be grouped separately."[89]

Comments: According to Black's Law Dictionary, adolescence commences at age fourteen (14) for males, and age twelve (12) for females.

F. "Pupils in classes for the physically handicapped should be grouped by chronological age and achievement level, with an age and/or achievement of not more than three years."[90]

Comments: In other words, children who are 11 years old should not be grouped with children who are 7 years of age. Similarly, a child who is 13 years old but reads at a 3rd grade level should not be grouped with children who are 13 years old and who are reading at a 7th grade level.

89. IBID, p.4
90. IBID, p.4

G. "All programs shall make use of ancillary specialized personnel on an itinerant basis whenever applicable to the needs of the student." [91]

Comments: *"Ancillary specialized personnel" might include tutors, reading specialists, counselors, and psychologists. The purpose of making specialized personnel available to a child is to enable that child to remain in his regular classroom; and not to be segregated into special classes.*

H. "Vision handicapped children may be integrated into regular classes when ancillary services are provided and progress is adjudged to be satisfactory upon periodic review by the State Board of Education." [92]

Comments: Parents and other child advocates should make sure that adequate ancillary services are provided, and that the State Board of Education does review these programs "periodically"

[91] IBID, p.4

[92] IBID, p.4

I. "DEVIATIONS FROM THE ABOVE PATTERN, (A-H) MAY BE APPROVABLE WHEN IT IS EVIDENT TO THE STATE DEPARTMENT OF EDUCATION THAT AN ADEQUATE SPECIAL EDUCATION PROGRAM IS MAINTAINED."[93]

Comments: Parents and other child advocates should make sure that any "deviations" from the standards cited on the previous pages have been approved by the State Department of Education. They should request written explanations of why a deviation from these standards has been allowed, and whether the deviation is for a temporary period.

If a parent feels that their child's school program is inadequate; that their child is not receiving an effective education, the parents have a right to apply for a hearing before their local school board. See RSA 193:3 (supplement) and/or RSA 43:1-5. (See also A Parent's Right To A Hearing Before And After Placement.)

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[93] IBID

Curriculum

A. "The school district or special school maintaining the special class program for physically handicapped children has the responsibility for the development and administration of a special course study, including prevocational training and guidance, leading to the development of the competencies required for productive citizenship." [94]

Housing

A. "Classrooms for physically handicapped children should be located in a regular school building housing children of comparable ages.

B. The classroom should be of sufficient size to accommodate adequate equipment and provide space for the proper learning activities of the various class levels. In general, special classrooms should be comparable or better equipped than other classrooms in the school." [95]

[94] IBID, p.5
[95] IBID, p.5

Equipment and Instructional Materials

A. "Classes for the physically handicapped should be provided with appropriate equipment and instructional materials adequate to develop a special educational program." [96]

Supervision and Administration

A. "Length of the school year shall be 180 days.

B. The length of the school day for the physically handicapped should exceed 5¼ hours, including recess but not lunch periods. Exceptions can be made in specific cases at the discretion of the superintendent for individuals of limited physical and emotional stamina." [97]

Comments: *Parents and other child advocates should insist that any reduction in a child's school day because of the child's alleged*

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96. IBID, p.5
97. IBID, p.5

Comments: (cont'd)

"limited physical and emotional stamina" is based on competent evidence - that a physician, psychiatrist or psychologist has actually examined the child and recommended that the child's school day be reduced.

D. "The school district should provide adequate supervision for the classes or programs for educating physically handicapped. The plan should include the superintendent or his representative, the building principal, and special supervisors who should work cooperatively to supervise the program and integrate it into the total school program.

E. Every school board shall annually by October first report to the State Department of Education on census forms provided by that Department the number of handicapped children in its school district. A later report shall be made when any other handicapped child shall be located in said district." [98] (RSA 186-A:4 supplement.)

[98] IBID, p.5

Teacher Qualifications

A. "The special teacher of physically handicapped children under this program should have:

1. Graduated from a four-year baccalaureate program approved for the preparation of special education teachers.

2. A teacher's certificate from the State of New Hampshire.

3. Endorsement of teacher's certificate for special area to be taught." [99]

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[99] IBID, p.6

THE HANDICAPPED CHILD'S RIGHT TO "SUITABLE TRANSPORTATION"

Under State Law - RSA 186-A:9 (supplement), a school district must "furnish suitable transportation to all handicapped children who are able to be so transported from their homes" to the public or private school to which they have been assigned.

Parents and other child advocates should note the words: "suitable transportation". They mean that, to comply with the law, a school district must provide the handicapped child with a form of transportation that is consistent with the child's needs.

Therefore, if the regular school bus is not "suitable" (e.g. too unsupervised for a hyperactive child, or too inaccessible for a crippled child), then the school district must furnish the child with another means of transportation (e.g. a taxi, car or special bus). By law, a handicapped child's right to transportation begins and ends at his/her door.[100] Thus, parents may demand that the child's school district send a taxi, bus, etc., directly to their home. The school district must pay all the costs up to the state's average tuition of transporting a child to his assigned school. (In 1973, the state average tuition was $674.00 for an elementary school child and $971.00 for a high school student.) The school district may pay more than the state's average tuition if the school board believes "the circumstances warrant it."[101]

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[100] RSA 186-A:9 (supplement)

Instead of paying to transport a handicapped child to his assigned public or private school, the school board may pay the costs of boarding the child at or near the assigned school, and then "provide transportation from the place where the children are boarded to the place of instruction or training."[102]

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[101] IBID
[102] IBID

EXEMPTIONS, SUSPENSIONS AND DISMISSALS

Handicapped children have a state-granted constitutional right to a publicly supported elementary and secondary education.[103] However, this right to an education is not absolute; a child, may, under appropriate circumstances, be deprived of his right to an education. To ensure that such a deprivation occurs only when the "circumstances" are "appropriate", the State's laws and the United States Constitution set forth certain standards and procedures which schools must follow when they act to deprive a child of his right to an education.

In order to protect the handicapped child from an unreasonable or unjust dismissal, suspension or exemption from school, parents and other child advocates must know and understand these standards and procedures.

EXEMPTIONS - RSA 193:5

Until a child reaches the age of sixteen, the law (RSA 193:1) says he must attend school.

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[103] See RSA 189:1-a (supplement), RSA 193:1 and RSA 186-A:1 et seq.

However, under another law - RSA 193:5 (supplement), the Commissioner of Education, upon the recommendation of a majority of the school board or the superintendent of schools, may exempt a child from his duty to attend school. An exemption is only to be granted when "the welfare of (a) child will be best served by the withdrawal of such child from school."

Clearly, this law does not allow the Commissioner to force a child to leave school. Thus even if a majority of the school board, the school superintendent and the Commissioner of Education feel that a child should withdraw from school, unless the child wants to leave, the state cannot exempt him from his duty to attend school. In other words, RSA 193:5 (supplement) cannot be used to force a handicapped child to leave school, but only to give a child the option to do so legally.

Historically, this law was probably enacted to allow children to withdraw from school in order to help their families during the harvest or planting season. Nowadays, it is probably used to allow children to accompany their parents on an extended vacation trip, and the like.

SUSPENSIONS - RSA 193:13 (supplement)

A suspension is a forced absence from school for a definite period of time. After being suspended, a child does not have to request readmission to school, but rather has a right to return to school after the suspension has expired.

A child may be suspended from school for "gross misconduct". [104] The superintendent is the person authorized to suspend students from school.[105] *Clearly, a child whose "misconduct" is the result of an emotional, intellectual or physical handicap cannot be suspended or dismissed from school. Rather, he or she must be provided with a special program of education.*[106]

The Due Process Clause in the United States Constitution (14th Amendment) requires school officials to give "adequate notice" to their students of what is meant by "gross misconduct".[107] Thus parents and other child advocates should make sure that school officials have told their students what sort of conduct can result in the student being

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[104] RSA 193:13 (supplement)

[105] IBID

[106] RSA 186-A:1,6,7

[107] Vail, et al v. The Board of Education of the Portsmouth School District, et al, 354 F. Supp. 592, 602 (1973).

SUSPENSIONS (cont'd)

suspended or dismissed from school. (Schools are not required to list every offense; the commission of a serious crime would obviously be considered gross misconduct.) Usually, a school will record what is considered "gross misconduct" in their student handbook.

DISMISSALS - RSA 193:13

A "dismissal" from school is more permanent than a suspension, and is therefore a more severe penalty. A student who has been suspended from school has the right to return to school after his suspension expires. The dismissed student does not have the right to return to school; he only has the right to apply to the school board for readmittance. The school board is not required to readmit any student who has been dismissed from school.

Dismissals from school must be for "gross misconduct or for neglect or refusal to conform to the reasonable rules of the school..."[108] The school board is the "person" authorized to dismiss students from school.[109]

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[108] RSA 193:13 (supplement)
[109] IBID

DISMISSALS (cont'd)

A child, whose "misconduct or neglect or refusal to conform to the rules of the school" is the result of his being intellectually, emotionally or physically handicapped, cannot be dismissed from school, but must be provided with a program of special education.[110]

State Law - RSA 189:15 (supplement) requires that the "rules of the school" be recorded in the "official records of the school board". Thus a dismissal based upon the breaking of a rule that has not been recorded would clearly be contrary to state law, and thereby illegal. In addition, the Due Process Clause in the United States Constitution requires school officials to give "adequate notice" to their students of what sort of conduct will result in a student being dismissed from school.[111] Publication in the school's student handbook of what constitutes prohibited conduct would probably be "adequate notice". (Schools are not required to list every offense for which a child may be dismissed, the commission of a serious crime would obviously be considered gross misconduct.)

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110. See RSA 186-A:1,6,7 (supplement)
111. Vail, et al v. The Board of Education of the Portsmouth School District, et al, 354 F. Supp. 592 (1973).

SUSPENSIONS AND DISMISSALS: A Student's Rights Under State Law and The Due Process Clause

> *"...school officials do not possess absolute authority over their students. Students in school as well as out of school are "persons" under our constitution. They are possessed of fundamental rights which the state must respect..."*[112]
>
> *- The United States Supreme Court*

To ensure that parents and other child advocates know how to protect their child from an unlawful suspension or dismissal, the rights a child has under State Law and the Constitution of the United States are described below. These rights must be respected by school officials. If they are not, any suspension or dismissal would be illegal and could be set aside by the local school board or the State Board of Education, or by a state or federal court.

New Hampshire's Federal District Court has ruled that students have the following rights pursuant to the Fourteenth Amendment's Due Process Clause:[113] (I quote directly from Judge Bownes' decision in the Vail case.)

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[112] Tinker v. Des Moines School District, 393 US 503, 506 (1969).

[113] Vail v. Board of Education of the Portsmouth School District, 354 F. Supp. 592 (1973).

Judge Bownes ruled that:

I. "*I hold that due process requires at least an informal administrative consultation with a student before any suspension is imposed so that the student can know why he is being disciplined and so that the student can have the opportunity to persuade the school official that the suspension is not justified, e.g., that this is a situation of mistaken identity or that there is some other compelling reason not to take action.*

II. *However, when a student is expelled (dismissed) or suspended for a period of more than five school days, minimal standards of procedural due process require the following:*

1. *The accused student and at least one of his parents or his guardian shall be furnished,*

II. (cont'd)

either in person or by mail directed to the student's last known address, (a letter) with written notice of the charges and of the nature of the evidence against the accused student.

2. The accused parent and at least one of his parents or his guardian shall be offered a formal hearing after sufficient time to prepare a defense or reply, at which hearing evidence in support of the charge shall be presented by school officials and the accused student or his parent or guardian shall have ample opportunity to present any defense or reply.

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> 3. *The decision of school officials to impose such discipline shall be based upon a dispassionate and fair consideration of substantial evidence that the accused student committed the acts for which suspension is to be imposed and that such acts are in fact a proper reason for such suspension."*[114]

State law provides students with the following rights:

> I. *"...where there is a suspension lasting beyond five (5) school days, the parent or guardian has the right to appeal any such suspension to the local (School) Board."* RSA 193:13 (*supplement*).
>
> II. *"...Any suspension to continue beyond 20 days must be approved by the local school board..."* RSA 193:13 (*supplement*).

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[114] Vail v. Board of Education of the Portsmouth School District, 354 F. Supp. 592, 603-604 (1973).

SUSPENSIONS AND DISMISSALS (cont'd)

> *III. "...Any dismissal must be subject to review (by local school board) if requested prior to the start of each school year and further, any parent or guardian has the right to appeal any such dismissal by the local school board to the State Board of Education." RSA 193:13 (supplement).*

The Due Process Clause in the United States Constitution also requires that the rules that are adopted by a local school board be fair and reasonable.[115] This requirement means that the rules must bear a reasonable relationship to the educational purpose of the schools.[116] Thus, conduct that does not affect the actual operation of a school cannot be used as a basis for suspending or dismissing a child.[117] Parents who feel that their child was suspended or dismissed unfairly should always appeal to the school board or to the Federal courts; even where no right of appeal is provided in the State's laws.

[115] Dixon v. Alabama State Board of Education, 294 F.2d 150 (5th Cir. 1961).

[116] Westley v. Rossi, 305 F. Supp. 706 (D. Monn. 1969).

[117] Cook v. Edwards, 341 F. Supp 307 (1972).

SUSPENSIONS AND DISMISSALS (cont'd)

The United States Supreme Court has also ruled that the Due Process Clause prohibits "penalties or conditions that are plainly arbitrary or oppressive",[118] or "wholly disproportioned to the offenses and obviously unreasonable."[119] Thus parents should always consider appealing any suspension or dismissal that is unduly harsh, or unreasonable. Appeals may be made to the local school board,[120] or to the Federal courts.

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118. Chicago & Northwestern Ry. v. Nye Schneider Fowler Co., 260 US 35, 44 (1972).
119. St. Louis, I.M. & S. Ry. v. Williams, 251 US 63,67 (1919).
120. RSA 43:1-8

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   Article gives a brief synopsis of recent activities which are reshaping educational opportunities for handicapped children, including new state and federal legislation, major attorney generals' rulings, major court decisions, and public awareness.

2. Abeson, Alan and Weintraub, Federick J., "State Law for the Handicapped -- Essential Ingredients," Compact, August, 1971[2].

   Brief analysis of the relationship between different types of mandatory school laws and the development of programs for handicapped children.

3. "Ability Grouping in Public Schools: A Threat to Equal Protection?" Connecticut Law Review, 1:150, June 1968.

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4. Blatt, Burt, "Public Policy and the Education of Children with Special Needs," Exceptional Children, March 1972[1].

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7. Dunn, Lloyd M., "Special Education for the Mildly Retarded -- Is Much of It Justifiable?" Exceptional Children, September 1968[1].

> Examines the present form of special education programs and provides a blueprint for change. Article takes position that current special education programs are obsolete and violate students' civil rights as well as raising serious educational questions.

8. "Equality of Educational Opportunity: Are Compensatory Programs Constitutionally Required?" Southern California Law Review, 42:146, Fall 1968.

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    Reviews the historical, philosophical and major legal developments pertaining to the identification and placement of children in special classes and the implications of these developments.

11. Weintraub, Federick J., and Abeson, Alan, "Appropriate Education for All Handicapped Children: A Growing Issue," 23 Syracuse Law Review 1056 (1972).

    Article discusses some of the major legal developments regarding appropriate educational placement, and the implications of these developments for increasing the educational opportunities of handicapped children.

12. Weintraub, Federick J.: Abeson, Alan; and Braddock, David, State Law and Education of Handicapped Children: Issues and Recommendations, Council for Exceptional Children, October 1971[4].

    The book is designed as a guide to those seeking legal change in the area of educational opportunities for handicapped children. It includes a general discussion of the right to an education, identification and placement, administrative responsibilities, and a model statute for special legal provisions that handicapped children need.

13. Holliday, Albert E., "Implementing Education for Retarded Children," Pennsylvania Education, May-June 1972, Vol.3, #5, pp.10-15[5].

14. Han, Em, "Special Miseducation--The Politics of Special Education," Inequality in Education, Nos. 3 and 4, Harvard Center for Law and Education, pp. 17-27.

15. "The Pennsylvania Court Orders," The Exceptional Parent, December/January 1972, pp.18-22.*

16. Basic Rights of the Mentally Handicapped, Mental Health Law Project (1751 N. Street, N.W., Washington, D.C., 20036) 1973.

A booklet designed to introduce the reader to some of the basic legal rights of the mentally ill and the mentally retarded. It focuses upon three recently articulated rights of the mentally handicapped - the right to treatment; the right to compensation for institution-maintaining labor; and the right to education.

17. "Constitutional Law: Failure to Provide Education to Physically or Emotionally Handicapped", 52 Boston University Law Review 884 (1972).

Discusses and criticizes the constitutional basis of the Mills decision.

18. Flanagan, R., "The Right of Handicapped Children to an Education: The Phoenix of Rodriguez," 59 Cornell Law Review 519 (March 1974).

A detailed legal analysis of the constitutional arguments supporting the handicapped child's right to an appropriate education.

19. Hill, Patricia, "The Education of Handicapped Children in Manchester, N.H.," (available from Child and Family Services of New Hampshire, 99 Hanover Street, Manchester, N.H.) 1973.

A study of the educational and evaluative resources available to the handicapped child in Manchester, New Hampshire.

20. Legal Rights of the Mentally Handicapped, Practising Law Institute (1133 Avenue of the Americas, New York, N.Y. 10036), 1973.

Three volumes of briefs, memoranda, law review articles, strategies for litigation, and other materials on the legal rights of the mentally handicapped.

21. Pressel, Wayne, "Student Suspensions and Dismissals in New Hampshire," (available from Child and Family Services of New Hampshire, 99 Hanover Street, Manchester, N.H.) 1971.

    A memorandum explaining the basic rights of students upon their suspension or dismissal from school.

22. Schwartz, Martin, "The Education of Handicapped Children: Emerging Legal Doctrines," 7 Clearinghouse Review 125 (July 1973).

    An analysis of the constitutional arguments supporting the handicapped child's right to an education.

23. State Law & Education of Handicapped Children: Issues and Recommendations, the Council for Exceptional Children (1411 South Jefferson Davis Highway, Arlington, Virginia 22202) 1972.

    Contains a model statute, and discussion of topics like: identifying the handicapped child, financing his education, private schools, planning, etc.

24. Your Rights as a Student, the Massachusetts Law Reform Institute (2 Park Square, Boston, Mass. 02116), 1971.

    A discussion of the legal rights of students in the public secondary schools in Massachusetts. Numerous and helpful footnotes.

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*Numbers 1-15 were taken from Mental Retardation and the Law, U.S. Department of Health, Education, and Welfare (April 1973), pp.59-61.

FOOTNOTES

1. Single copies of reprints of articles from Exceptional Children are available from the Council for Exceptional Children Information Center, 1411 S. Jefferson Davis Highway, Suite 900, Arlington, Virginia 22202.

2. Single copies of this article are available from the State Information Clearinghouse for Exceptional Children, CEC Information Center, 1411 S. Jefferson Davis Highway, Suite 900, Arlington, Virginia 22202.

3. Single copies of this publication are available from Focus for Exceptional Children, 6635 E. Villanova Place, Denver, Colorado 80222, Price $.80.

4. Copies may be purchased from the Council for Exceptional Children, 1411 S. Jefferson Davis Highway, Suite 900, Arlington, Virginia 22202, Price $3.25.

5. Published by the Pennsylvania Department of Education, Education Building, Box 911, Harrisburg, Pennsylvania 17126.

GLOSSARY

Constitutional Right - a legal right which is based on the United States Constitution or on a state constitution. Equal protection and due process of law are constitutional rights.*

Defendant - the person against whom an action is brought because he is allegedly responsible for violation of one or more of a plaintiff's legally protected interests. The defendants in the Mills right-to-education case included the Board of Education of the District of Columbia and its members, the Superintendent of Schools for the District and subordinate school officials, the Mayor and certain subordinate officials, and the District of Columbia.*

Due Process of Law - a right to have any law applied reasonably and with sufficient safeguards, such as hearings and notice, to insure that an individual is dealt with fairly. Due process is guaranteed under the Fifth and Fourteenth Amendments to the U.S. Constitution. In Mills v. District of Columbia, the judge held that due process of law requires a hearing prior to exclusion, termination or classification of a student into a special program.*

Equal Protection of Law - a right not to be discriminated against for any unjustifiable reason, such as because of race or handicap. Equal protection is guaranteed under the Fourteenth Amendment.*

F. Supp. - is an abbreviation for Federal Supplement. Federal district court cases can be found under this title. Thus 334 F. Supp. 1247 can be found at a law library in volume 334 of the Federal Supplements at page 1257.

Plaintiff - a person who brings a suit in court in the belief that one or more of his legal rights have been violated or that he has suffered legal injury.*

Precedent - a decision by a judge or court which serves as a rule or guide to support other judges in deciding future cases involving similar or analogous legal questions. In Mills, the judge cited some famous education decisions as precedents, including Brown v. Board of Education, outlawing segregated schools, and Hobson v. Hansen, outlawing the track system in the District of Columbia. Mills can now be cited as precedent by other

Precedent (cont'd)	-	courts for finding a constitutional right to education.*
Procedural Right	-	a right relating to the process of enforcing substantive rights or to obtaining relief, such as the right to a hearing, the right to present evidence in one's defense, or the right to counsel.*
RSA	-	is an abbreviation for Revised Statutes Annotated. New Hampshire's state laws are compiled in books under this title. Thus the translation for RSA 186-A:1 is a State Law that can be found in Chapter 186-A, section 1 in a book entitled: New Hampshire Revised Statutes Annotated.
Substantive Right	-	an essential right such as the right to free speech and religion or to be free from involuntary servitude, usually found in the Bill of Rights.*
Supplement	-	state laws are always being amended, or new laws enacted. Thus "supplements" to the hard cover volumes of the state's laws are made available after each legislative session. These supplements can usually be found in the back of the hard cover volume of the State's Laws.

Statutory Right	- a right based on a statute or law passed by a unit of federal, state or local government. The Fair Labor Standards Act is a federal statute establishing a right to a minimum wage for certain categories of workers, including, by amendment, patients institutionalized in state hospitals and schools for the mentally retarded.*

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* taken from Mental Retardation and the Law, U.S. Department of Health, Education and Welfare, Washington, D.C. (April 1973), pp.63-67.

THE LAWS

Chapter 186-A (Program of Special Education) and 186-B (Education and Training of the Blind) are printed below in their entirety.

Other State Laws that have been cited in the *Handbook* are printed in a numerical order, beginning with RSA 8:41-c.

CHAPTER 186-A

PROGRAM OF SPECIAL EDUCATION

186-A:1 Declaration of Purpose.
186-A:2 Definitions.
186-A:3 Program Established.
186-A:4 Enumeration.
186-A:5 Education.
186-A:6 Education Required.
186-A:7 Establishment of Classes.
186-A:8 Tuition of Handicapped Children.
186-A:9 Transportation.
186-A:10 Federal Assistance.
186-A:11 State Aid.
186-A:12 Expenses.
186-A:13 Limitation of Provisions.

186-A:1 Declaration of Purpose.

It is hereby declared to be the policy of the state to provide the best and most effective education possible to all handicapped children in New Hampshire.

186-A:2 Definitions.

I. "Physically handicapped" shall mean a person up to twenty-one years of age, married or unmarried, whose activity is or may become so far restricted by reason of a physical defect or infirmity, however caused, as to reduce his normal capacity for education or self-support, or both.

II. "Intellecutally handicapped" shall mean a person up to twenty-one years of age, married or unmarried, whose activity is

II. (cont'd)

or may become so far restricted by intellectual handicap, however caused, as to reduce his normal capacity for education or self-support, or both.

III. "Emotionally handicapped" shall mean a person up to twenty-one years of age, married or unmarried, who, by reason of internal emotional conflicts, home conditions or general environment, has behavior and/or learning problems or is otherwise unable to make normal social or educational adjustments but who has sufficient intellectual and emotional capacity to be enabled with clinical diagnosis, proper treatment, training and remedial education to become a responsible and self-supporting citizen.

IV. "Handicapped child" shall mean any person up to twenty-one years of age who is handicapped by one or more of the above-defined handicaps.

186-A:3 Program Established.

The state board of education is authorized to establish a program of special education within the funds appropriated or available and to appoint such personnel as may be necessary for the proper operation of said program.

186-A:4 Enumeration.
Every school board shall annually by October first report to the state department of education on forms provided by that department the number of handicapped children in its school district. A later report shall be made when any other handicapped child shall be located in said district.

186-A:5 Education.
The state board of education shall submit to the school districts an approved plan for education of handicapped children which the school districts may employ for education of handicapped children capable of being benefited by instruction or training with the district with the exception as provided in section 6 hereof.

186-A:6 Education Required.
Every handicapped child capable of being benefited by instruction shall attend an approved school or program to which he may be assigned. If a physically handicapped child capable of being benefited by instruction shall make application for continued educational

facilities, such instruction may be continued until such time as the physically handicapped child has acquired education equivalent to a high school education or has attained the age of twenty-one years.

186-A:7 Establishment of Programs. A school district shall establish programs for handicapped children as approved by the state board of education, or shall pay tuition to such an approved program maintained by another school district or by a private organization. Eligibility for this type of education shall be determined by the school board under regulations promulgated by the state board of education.

186-A:8 Tuition of Handicapped Children.

I. Whenever any handicapped child shall attend any public or private school or program situated within or outside of this state, which offers special instruction for the training and education of handicapped children, and which has been approved for such training by the state board of education, the school district where such handicapped child resides is hereby authorized and empowered and shall appropriate and pay a portion of the cost

I. (cont'd)

of such education. The school district in which each handicapped child resides shall be liable for the tuition of said child.

II. The tuition liability of the school district shall be limited to the state average cost per pupil of the current expenses of operation of the public elementary, junior high or high school as estimated by the state board of education for the preceding school year. This current expense of operation shall include all costs except costs of transportation of pupils, and except capital outlay and debt obligations.

III. A school district may pay for tuition costs other than the amount specified in paragraph II when in the judgement of the school board the circumstances warrant it.

IV. In Cheshire county upon request of such a school district, and upon approval by the county convention, the county may raise and appropriate funds to pay a portion of such costs for special education under this section.

V. Schooling for handicapped children may commence at any age when approved by the state board of education. The state board of education may assign children to approved schools for handicapped children as provided in RSA 193:3.

VI. Within the limitations of the appropriated funds made available for the purposes of this section, the state board shall be responsible for such tuition costs which exceed the state average costs per pupil when the appropriation is sufficient so as not to jeopardize existing obligations undertaken by said board in assisting handicapped children currently under special instruction or training.

VII. The amount of the tuition costs for handicapped children that can be assumed by the state board of education after assessing its current commitments and obligations against the total appropriation for the purpose of this section.

186-A:9 Transportation.

The school board shall furnish suitable transportation to all handicapped children who are able to be so transported from their homes to the place where such instruction or training is to be furnished. However, the liability of a school district for transportation shall not exceed for each pupil transported an amount equal to the liability to the district for tuition as specified in RSA 193:4. Where the cost of such transportation would constitute an unreasonable expense the school board shall, at the expense of the district, board the children near the place where such instruction or training is to be furnished and shall provide transportation from the place where the children are boarded to the place of instruction or training. A school district may pay for transportation at a rate per pupil higher than the amount of liability for tuition as specified in RSA 193:4, when in the judgment of the school board the circumstances warrant it.

186-A:10 Federal Assistance.

The state board of education is hereby authorized to cooperate with the federal government or any agency thereof in the development of any plan for the education of handicapped children and to receive and expend, in accordance with such plan, all funds made available to the state board of education from the federal government or any of its agencies, the state or from other sources. The several school districts of the state are hereby authorized to receive, incorporate in their budgets, and expend for the purposes hereof such funds as may be made available to them through the state board of education from the federal government or any of its agencies.

186-A:11 State Aid.

The state board of education is authorized to promulgate a program setting forth standards for education for handicapped children and to pay over to any school district, or private organization operating such an approved program, certain sums to pay a portion of the actual cost of the education of each New Hampshire resident child in such an education program, so long as said program meets the standards set by the state board of education and so long as funds are appropriated for the purpose.

186-A:12 Expenses.

The expenses incurred by a school board in administering the law in relation to education for handicapped children shall be paid by the district in which the case arises, from funds appropriated or made available to said district.

186-A:13 Limitation of Provisions.

Nothing in this chapter shall be construed as authorizing any public official, agent, or representative, in carrying out any of the provisions of this chapter to take charge of any child over the objection of either of the parents of such child, or of the person standing in loco parentis to such child except pursuant to a proper court of order.

CHAPTER 186-B

EDUCATION AND TRAINING OF THE BLIND

186-B:1 Statement of Purpose.
186-B:2 Appointment of Blind Services Administrator.
186-B:3 Program for Blind Established.
186-B:4 Aid to the Blind.
186-B:5 Industrial Workshop and Homework Program.
186-B:6 Aid to the Blind; Transfer of Functions.
186-B:7 Transfer of State Agency for Blind; Position Abolished.
186-B:8 Nesmith Fund.

186-B:1 Statement of Purpose.

To enable the state to more effectively provide services to the blind of all ages in the state, it is the intent of this chapter to place the functions of education, training, vocational rehabilitation, and related services of the blind under one administration. By this transfer of functions, all of the responsibility for the education and training of all handicapped children in the state becomes the responsibility of the department of education.

186-B:2 Appointment of Blind Service Administrator.

I. The state board of education shall appoint the director of blind services in the appropriate division, under the direct supervision of the chief of the division.

186-B:3 Program for Blind Established.

I. The department of education shall establish a program for the education, training, and vocational rehabilitation for the blind of all ages, whether or not they are eligible for aid to the needy blind under the division of welfare.

II. The department of education shall develop or cooperate with other agencies in providing services to the blind, including the locating of blind persons, vocational guidance and training of the blind, placement of blind persons in employment, instruction of the adult blind in their homes and other services to blind persons. In connection with assistance to needy blind persons the department shall give due consideration to the special needs associated with the condition of blindness and, in cooperation with the division of welfare, department of health and welfare, shall: (a) promulgate rules and regulations stating in terms of ophthalmic measurements the amount of visual acuity which an applicant may have and be eligible for assistance and providing for an examination by an ophthalmologist or physician skilled

II. (cont'd)

in diseases of the eye or by an optometrist, whichever the individual may select, in making the determination whether the individual is eligible and fixing the fee for such examination; (b) establish the procedure for securing competent medical examination; (c) designate or approve a suitable number of ophthalmologists or physicians skilled in diseases of the eye, and optometrists, who must be duly licensed or registered under the laws of this state and actively engaged in the practice of their professions, to examine applicants and recipients of aid to determine their eligibility for assistance; (d) fix the fees to be paid for medical examination from funds available to the division.

186-B:4 Aid to the Blind.

The department of education shall furnish aid to the blind of the state, as follows:

I. Register of Blind. The director for blind services, shall prepare and maintain a register of the blind in the state, which shall describe their condition, cause of blindness, capacity for education and industrial training, and such other data as he considers advisable.

II. Industrial Aid. The director for blind services shall act as a bureau of information and industrial aid for the blind, and for this purpose may furnish materials and tools to any blind person. He may assist blind persons engaged in home industries in marketing their products, in finding employment, and in developing home industries. He may ameliorate the condition of the blind by devising means to facilitate the circulation of books, by promoting visits among the aged or helpless blind in their homes, and by such other methods as are expedient. However, he shall not undertake the permanent support or maintenance of any blind person.

III. State Aid. The director for blind services, shall furnish assistance to such blind persons, in such amounts and at such asylums, schools, or other institutions designed for the purpose of industrial aid to the blind as the department of education directs.

IV. Instruction Outside State. The chief of the division at his discretion shall contribute to the support of the blind persons from New Hampshire receiving instruction in industrial institutions outside of the state.

IV. (cont'd)

The furnishing of such assistance shall not affect the settlement of any person nor his right to vote.

V. Assistants to Aid Blind. The state board of education may appoint other officials and agents necessary to assist in carrying into effect the provisions of this chapter, subject to regulations of the state personnel commission.

186-B:5 Industrial Workshop and Homework Program.

I. The department of education is authorized to establish an industrial workshop and homework project to provide work training and gainful employment for the older blind of the state, with the intent to thereby qualify for federal grants.

II. The director of blind services in consultation with the division's facilities specialist, shall act as the director of the shop and homework project. Under his general direction there shall be a coordinator responsible for the organization and administration of the shop as well as for procuring subcontracts. There shall be a shop manager responsible for production and the day-to-day management

II. (cont'd)

of the shop. There shall be a home instructor who shall visit the homes of the blind and instruct them in the various production operations. There shall be a driver responsible for delivery work between the shop and the homes of the blind workers as well as performing all other trucking duties. There shall be a secretary-bookkeeper who shall keep all production records and act as a secretary to the shop staff.

186-B:6 Aid to the Blind; Transfer of Functions.

I. The functions and duties of furnishing aid to the blind, other than furnishing public assistance to the needy blind, performed by the division of welfare, deparment of health and welfare, are transferred to the department of education.

II. Wherever reference is made in the statutes to the blind services, to the bureau of blind services, to the state agency for the blind, to the supervisor of services to the blind, to the chief of blind sevices, or to any other agency furnishing aid to the blind other than an agency furnishing public assistance to the needy blind, the reference means the department of education.

186-B:7 Transfer of State Agency for Blind; Position Abolished.

The position of state agent for the blind, sometimes known as chief of blind services, authorized in the division of welfare, department of health and welfare by RSA 167:40, is transferred to the department of education. Wherever reference is made in the statutes to the state agent for the blind or to the chief of the bureau of blind services, the reference means the director for blind services in the department of education.

186-B:8 Nesmith Fund.

I. There is hereby appropriated annually the entire income derived from the Nesmith Trust Fund to be expended by the department of education for the aid, support, maintenance and education of the indigent blind of the state of New Hampshire. The governor is authorized to draw his warrants which shall be a charge against the Nesmith Fund.

II. In the event that the annual income derived from said Nesmith Fund shall be less than forty-eight hundred dollars, there is hereby appropriated from the general fund of the state a sum equal to the difference between the amount of income from the Nesmith Fund and forty-eight hundred dollars

II. (cont'd)

which shall be added to the income and expended by the department of education for the aid, support, maintenance and education of the indigent blind to comply with the terms of the trust under the will of John Nesmith. The governor is authorized to draw his warrant for said sum out of any monies in the treasury not otherwise appropriated.

8:41-c Educational Expenses.

Educational expenses of any inmate or patient, who is educable or trainable and who is between six and twenty-one years of age, as required under statute and incurred in the institutions named in or at the direction of the commissioner of health and welfare, in any public or private institution or elsewhere, shall be recovered from the school district in which the patient's or inmate's parents or legal guardian reside, on the January first preceding the recovery up to the state average elementary cost per pupil, as determined by the state board of education for the preceding school year. The liability of the school district for such expenses shall precede that of the persons and estates named in RSA 8:41 and RSA 8:41-a, which are hereby relieved of liability for such expenses to the extent of the school district's liability.

CHAPTER 43

HEARINGS BEFORE TOWN OR CERTAIN OTHER LOCAL OFFICERS

43:1 Hearings by Selectmen.
43:2 Notice of Hearing.
43:3 Posting of Notice.
43:4 Hearing; Record.
43:5 Hearings by Other Officers.
43:6 Disqualification.
43:7 Appointment by Board to Fill Place of Disqualified Officer.
43:8 Appointment by Court Where Whole Board is Disqualified.

43:1 Hearings by Selectmen.

On petition to the selectmen for the laying out or altering of highways, or for laying out lands for any public use, and generally for the purpose of deciding any question affecting the conflicting rights or claims of different persons, their proceedings shall be governed by the following rules:

43:2 Notice of Hearing.

They shall appoint a time and place of hearing, and order notice thereof to be given to all persons whose property or rights may be directly affected by the proceeding, by giving to them or leaving at their abode an attested copy of the petition and order fourteen days at least before such hearing, or, if such persons are non-residents, by publication. If the owner is under guardianship such notice shall be given to his guardian. If the owner is a minor, or under any legal disability, the judge of probate may appoint a guardian for such person, to whom notice shall be given.

43:3 Posting of Notice.

Notice shall be given to all other persons interested by posting a like copy in one of the most public places in the town or district affected by the petition, and by leaving a like copy at the abode of the clerk of such town or district a like time before the hearing.

43:4 Hearing; Record.

They shall hear all parties who desire to be heard, and examine them and their witnesses under oath, which either of the selectmen may administer; they may adjourn when they deem it necessary; and they shall make their decision in writing, and cause the petition, order of notice, evidence of service and their decision to be filed in the town clerk's office and recorded at length upon the town records; and their decision shall be of no force or effect until the same is done.

43:5 Hearings by Other Officers.

The same rules shall apply to and govern the proceedings of fence-viewers, school boards, village commissioners, committees appointed by the selectmen and all town officers when they are applied to or appointed to decide any question affecting the rights or claims of individuals, saving that other or shorter notice, when required or allowed by statute, shall be sufficient. (My emphasis).

43:6 Disqualification.

No selectman or other officer shall act, in the decision of any such case, who would be disqualified to sit as a juror for any cause, except exemption from service, in the trial of a civil act in which any of the parties interested in such case was a party.

43:7 Appointment by Board to Fill Place of Disqualified Officer.

The place of a selectman or other officer so disqualified shall be supplied by appointment, by the other members of the board, of a qualified person who has theretofore holden the same office in the town, or, in the case of committees, by a new appointment.

43:8 Appointment by Court Where Whole Board is Disqualified.

If in any case the whole board is disqualified the selectmen shall, in writing, so inform some justice of the superior court, who shall thereupon, with or without notice, appoint a new board for that case from qualified persons who have before holden the same office in the town, if such there be, otherwise from qualified persons, residents of another town, who have holden the same office.

170:2 Child-Caring Agency.

A child-caring agency is any person, firm, corporation or association who:

I. Operates or maintains a boarding home, foster home, or institution for children, or

II. Receives for foster care, custody or control one or more children under the age of eighteen years any one of which stands in a relationship to the operator of the child-caring agency more distant in the degrees of kinship, by affinity or consanquinity, than second cousin who are separated from their parent or guardian, except children committed by a court; or during part or all of the day regularly gives care to one or more children, any one of which stands in a relationship to the operator of the child-caring agency more distant in the degrees of kinship, by affinity or consanguinity, than second cousin, whether or not the care is given for compensation, and whether or not the service is known as a family day care home, child care center, day nursery, day care agency, child development center, nursery school, kindergarten, play school, progressive school, or by any other name. The term child-caring agency does not include a bona fide summer camp, a hospital, a public school, a private school approved by the state board of education or a private home or other facility in which a child is left by his parent or guardian for temporary care for a period not exceeding thirty consecutive days in any calendar year. Such child-caring agencies shall keep a register of the name and address of each child, the name and address of his parent or guardian and the dates of his arrival and departure. Such register shall be available at any time for the inspection of the director of welfare or his authorized representative. (Amended 1973, 219:1, eff. Aug. 17, 1973.)

189:1-a (New) Duty to Provide Education.

It shall be the duty of the school board to provide, at district expense, elementary and secondary education to all pupils under eighteen years of age who reside in the district, provided that the board may exclude specific pupils for gross misconduct or for neglect or refusal to conform to the reasonable rules of the school, and further provided that this section shall not apply to pupils who have been exempted from school attendance in accordance with RSA 193:5.

189:11-a (New) Food and Nutrition Programs.

I. Each school board shall make a meal available during school hours to every pupil under its jurisdiction. Such meals shall be served without cost or at a reduced cost to any needy child who is unable to pay the full cost of said meals. The state board of education shall insure compliance with this section and shall establish minimum nutritional standards for such meals and shall further establish income guidelines setting forth the minimum family size annual income levels to be used in determining eligibility for free and

I. (cont'd)

and reduced price meals. Nothing in this section shall prohibit the operation of both a breakfast and lunch program in the same school. Further any requirement of this section which conflicts with any federal statute or regulation may be waived by the state board of education.

II. Notwithstanding the provisions of paragraph I, the requirements thereof may be waived as hereinafter provided.

(a) The school board of any school which has not made meals available during the 1972-1973 school year may make application for a waiver to the state board on or before September 30, 1973.

(b) Requests for such waiver shall be granted by the state board upon the receipt of such application and shall remain in force until the state board determines otherwise, as hereinafter provided, but no such waiver shall continue beyond September 30, 1979.

(c) The state board is authorized and directed to study the schools which have been granted a waiver and to formulate a plan to implement the requirements of this section in such schools.

(d) The state board shall, after formulating such a plan, notify the school board granted such a waiver of the date when said waiver will terminate.

(e) After the termination of any waiver, such school board shall comply with the requirements of this paragraph I.

(f) The state board may also grant a waiver to any school which is being phased out of use provided such waiver may not exceed the period of one school year.

III. The state board shall prepare and distribute a curriculum for nutrition education and such curriculum shall be intergrated into the regular courses of instruction for kindergarten and grades one through twelve during the school year.

IV. Each school board shall maintain yearly statistics on the age, height, weight, and grade of each student.

189:11-b (New) Learning Disability Teacher.

The school board of each school district may provide the services of a learning disability teacher under such conditions and with such exceptions, as the state board of education may prescribe.

189:15 Regulations.

The school board may, unless otherwise provided by statute or state board regulations, prescribe regulations for the attendance upon, and for the management, classification and discipline of, the schools; and such regulations, when recorded in the official records of the school board, shall be binding upon pupils and teachers.

193:1 Duty of Pupil.

Every child between six and sixteen years of age shall attend the public school within the district or a public school outside the district to which he is assigned or an approved private school during all the time the public schools are in session, unless he has been excused from attending on the ground that his physical or mental condition is such as to prevent his attendance or to make it undesirable. Provided that any child more than fourteen years old who has completed his studies prescribed for the elementary school shall not be required to attend high school if the school district where he resides does not maintain a high school. Provided further, if a child reaches his sixth birthday after September thirtieth he will not be required to attend school under the provisions of this act until the following year.

193:3 Change of School or Assignment; Excusing Attendance.

Any person having custody of a child may apply to the school board for relief if he thinks the attendance of the child to the school or special class for handicapped children to which he has been assigned will result in a manifest educational hardship to the child and, if the person having custody of the child is aggrieved by the decision of the school board, he may apply to the state board of education and the state board of education, after investigating the case and giving notice to the school board, may order such child to attend another school in the same district if such a school is available, or to attend school in another district. In case the child shall be assigned to another school district the district in which such child resides shall pay to the district in which such child attends tuition computed as provided in RSA 193:4. The state board of education may also permit such child to withdraw from school attendance for such time as it may deem necessary or proper or make such other orders with respect to the attendance of such child at school as in its judgment the circumstances require. For the purposes of this section, handicapped children shall mean all those persons as defined in RSA 186-A:2.

193:4 District Liability for Elementary or Junior High School Tuition

Any district shall be liable for the tuition of any child who as a resident of the district has been assigned to attend a public school in another district; provided, however, that except under contract the liability of any school district hereunder for the tuition of any pupil shall be limited to the state average cost per pupil of the current expenses of operation of all public elementary schools or junior high schools as defined in RSA 189:25 as amended, as estimated by the state board of education for the preceding school year, or the current expenses of operation of the receiving district for its elementary or junior high schools, as estimated by the state board of education for the preceding school year, whichever is less. This current expense of operation shall include all costs except those made for capital outlay, debt obligations and transportation, provided that to the above may be may be added a rental charge of two per cent of the capital cost of such elementary or junior high school facilities as may be defined by the state board of education.

193:5 Exemption From Attendance.

Whenever it shall appear to the superintendent of schools that the welfare of any child will be best served by the withdrawal of such child from school, he or a majority of the members of the school board shall make recommendation to the commissioner of education, who shall, if the facts warrant it, make an order exempting such child from attendance for such period of time as seems best for the interest of such child.

193:13 Suspension and Dismissal of Pupils.

The superintendent, or his representative as designated in writing, is authorized to suspend pupils from school for gross misconduct, providing that where there is a suspension lasting beyond twenty school days must be approved by the local board. Any pupil may be dismissed from school by the local school board for gross misconduct or for neglect or refusal to conform to the reasonable rules of the school and said pupil shall not attend school until restored by the local board.

Any dismissal must be subject to review if requested prior to the start of each school year and further, any parent or guardian has the right to appeal any such dismissal by the local board to the state board of education.

193:18-a Definition.

The term "home for children" as used in this subdivision shall mean any orphanage, institution for the care, treatment, or custody of children, or child-caring agency as defined by RSA 170:2.

193:18-b Right of Attendance.

Whenever any child is placed and cared for in any home for children, such child, if of school age, shall be entitled to attend the public schools of the school district in which said home is located, unless such placement was solely for the purpose of enabling a child residing outside said district to attend the schools thereof. For the purpose of computing foundation aid in accordance with RSA 198:8-12 for the fiscal years 1961-62 and 1962-63, children placed in "homes for children" in the second preceding year shall be credited in average daily membership to the district in which said home was located.

CHAPTER 330-A

Psychologists

330-A:16-a (New) Associate Psychologist.

I. An associate psychologist is a person who (a) has received the master's degree based upon a program of study whose content was primarily psychological from an accredited educational institution having a graduate program or its substantial equivalent in both subject matter and extent of training, (b) has submitted to the board such recommendations, transcripts, and evidences of his work as the board shall require, and (c) is employed in an agency, institution, or organization that contracts for the services of a psychologist certified under the provisions of this chapter, provided such associate psychologist is under the direct supervision of the certified psychologist, meets the certified psychologist at the employing agency on a regular basis, and further provided that the certified psychologist is willing to assume professional responsibility for the activities and services of such associate psychologist at that agency, institution, or organization under terms of a written agreement.

II. In the event that the certified psychologist terminates his contract with that agency, institution, or organization, he shall notify the board to that effect before the date of his termination of contract. Unless and until another certified psychologist, similarly employed by that agency, institution, or organization, notifies the board that he is willing to assume the professional responsibility for the activities and services of the associate psychologist, under terms of a written agreement such associate psychologist may not use the title associate psychologist in association with any of his activities and services.

III. In the event that a certified psychologist informs the board in writing that he is no longer willing to assume the professional responsibility for the activities and services of an associate psychologist, such associate psychologist may not use the title associate psychologist in association with any of his activities and services unless and until another certified psychologist similarly employed by that agency, institution or organi-

III. (cont'd)

zation informs the board that he is willing to assume the professional responsibility for the activities and services of the associate psychologist under terms of a written agreement.

IV. Each written agreement referred to in this section shall, before becoming effective, be approved by the board and each agreement and its execution shall be reviewed by the board at least annually.

V. Nothing in this chapter shall be construed as sanctioning, permitting, or allowing an associate psychologist to render or offer to render services as an associate psychologist except under the conditions and provisions specified in this section or in any other fashion to engage in the independent or private practice of such activities and services.

330-A:11 Qualifications; Standards; Examinations.

I. The board shall issue a certificate as psychologist to any person who pays a fee of twenty-five dollars, who passes a satisfactory examination in psychology and who submits evidence satisfactory to the board that he: (a) is of good moral character, (b) is a citizen of the United States or has legally declared his intention of becoming such a citizen, (c) has received the doctoral degree based on a program of studies whose content was primarily psychological from an accredited educational institution having a graduate program or its substantial equivalent in both subject matter and extent of training, (d) has had at least two years of satisfactory, supervised experience in the field of psychology.

II. Examinations for applicants under this act shall be held by the board once each year. The board shall determine the subject and scope of the examinations, which may be written, oral or both. If an applicant fails his first examination, he may be admitted to a subsequent examination upon the payment of an additional fee of twenty-five dollars.

III. Until July 1, 1959, the board may waive the examination requirement and the requirement of subsection I (d) and (e) of this section, and may grant a certificate upon payment of a fee of twenty-five dollars to a person who is a legal resident or has been principally employed in the state of New Hampshire for at least two years and meets the requirement of subsections I (a), (b) and (c) of this section and who either:

(a) has a doctoral degree or the equivalent thereof from an accredited institution based on a program which was primarily psychological, or the substantial equivalent thereof in both subject matter and extent of training, and in addition, has had five years of professional experience satisfactory to the board; or

(b) has a master's degree or the equivalent thereof from an accredited institution based on a program which was primarily psychological, or the substantial equivalent thereof in

III. (cont'd)

(b) (cont'd)

both subject matter and extent of training, and in addition, has had eight years of professional experience satisfactory to the board.

The following State Standards are included in this section:

I. Parental Pequest for Placement or Change in Educational Placement

II. Annual Statement of Placement and Parental Consent to Placement

III. Standards for the Education of Emotionally Handicapped Children

IV. Standards for the Education of Intellectually Handicapped Children

V. Standards for the Education of Physically Handicapped Children

VI. Standards for the Specialist in Assessment of Intellectual Functioning

Please send this copy and
the permission slip to:

PARENTAL REQUEST FOR PLACEMENT OR CHANGE IN EDUCATIONAL PLACEMENT - HANDICAPPED CHILD

Check One: ( ) Placement
( ) Change in Placement

Date: ____________________

Name of Child: ____
First Middle Last

Name of Parent or Guardian: ____
First Middle Last

Residential Address: ____
Street City State & Zip Code

Mailing Address: ____
Street City State & Zip Code

Date of Birth: ______________ Age: __________ Telephone: ______________

Name of School Child Presently Attends: ________________________ Grade: ______________

Address of School: ____
Street City State & Zip Code

Principal's Name: ________________________ Telephone: ______________

In your own words, state what you believe is the nature of your child's handicap:

____

____

If you are requesting a change in placement, please explain why: ______________

____

____

Do you have any school or program in mind for placement or change in placement for your child? ( ) Yes ( ) No. If yes, what school or program?

____
Name of School Address of School

Have you discussed your child's case with any local school officials? ( ) Yes ( ) No.
If yes, please list their names below:

Name Title

Name Title

Have you discussed your child's case with any official of a special school, a hospital, a psychologist, or any community agency? ( ) Yes ( ) No If yes, please list their names and addresses (if you know them) below:

Name Title or Agency Address

Name Title or Agency Address

Name Title or Agency Address

Name Title or Agency Address

Name Title or Agency Address

Have you discussed your child's case with any other doctors? ( ) Yes ( ) No. If yes, please list their names and address (if you know them) below:

Name Address

Name Address

Name Address

Name Address

Name Address

PERMISSION FOR THE SCHOOL TO GATHER INFORMATION ABOUT YOUR CHILD

Name of Child: ______________________________ Date of birth: _______________

Relationship of person releasing information regarding above child: _______________

____

I hereby give my permission for the release of pertinent educational, psychological and/or medical records regarding my child to the Pupil Personnel Services of ______________________________ (Name of District) School District for the purpose of justification of placement or transfer of my child in a Special Education program.

______________________________ Signature

______________________________ Date

****

PERMISSION FOR THE SCHOOL TO RELEASE INFORMATION ABOUT YOUR CHILD

Name of Child: ______________________________ Date of birth: _______________

Relationship of person releasing information regarding above child: _______________

____

I hereby give my permission for the release of pertinent educational, psychological and/or medical records regarding my child to the Pupil Personnel Services of ______________________________ (Name of District) School District for the purpose of justification of placement or transfer of my child in a Special Education program.

______________________________ Signature

______________________________ Date

(Student's Name)

PARENT OR GUARDIAN -- DO NOT SIGN THIS AGREEMENT UNLESS YOU UNDERSTAND AND AGREE TO ITS TERMS AND CONDITIONS

YOU HAVE THE FOLLOWING RIGHTS:

1. To accept this program as written. If you accept, sign Part A at the bottom of this page. The school official will sign at the same time and give you a copy to keep.

2. To appeal placement of your child in the program described on the previous pages and to ask local school officials to propose a different program. To do this, sign Part B at the bottom of this page. The school official will give you a copy to keep.

3. If you are still dissatisfied with this suggested placement, you may appeal this placement to the State Board of Education in accordance with RSA 193:3. To do this, you would write a short note to the Commissioner of Education, 410 State House Annex, Concord, New Hampshire 03301, explaining the situation and your dissatisfaction.

4. You may decline placement of your child in any Special Education program. If you are considering this possibility, it is important that you discuss the many consequences of it with your local school officials and if necessary with the State Board of Education Staff. For further information, you may call or write to the Special Education Section (office), 105 Loudon Road, Bldg. #3, Concord, New Hampshire 03301, telephone 271-3741.

A copy of this document will be filed with the State Department of Education, Special Education Section, at the above address, to record this agreement.

PART A.

I have read the above document regarding the placement of my child in a special education program. I agree to its terms and conditions.

We have prepared the above document as representing the result of a team decision to provide the above-named student appropriate special education services. We agree to keep the terms and conditions of the agreement.

(Parent or Guardian)

(For the School District)

(Date)

(Date)

PART B.

I have read the above proposal for the placement of my child in a special education program. I do not agree to its terms and conditions. I hereby appeal to the (Name of Town)________________________School Board to propose a program other than that stated above.

____
(Parent or Guardian)

____
(Date)

PARENTS' COPY TO KEEP

NEW HAMPSHIRE STATE DEPARTMENT OF EDUCATION
VOCATIONAL REHABILITATION DIVISION
SPECIAL EDUCATION SECTION
105 LOUDON ROAD, BLDG. #3
CONCORD, N.H. 03301
271-3741

ANNUAL STATEMENT OF PLACEMENT AND PARENTAL CONSENT TO PLACEMENT

Name of District: ______________________________ S.U.# __________

Name of Student: ______________________________ Date of birth: __________

Name of Parents or Guardian: ______________________ Phone: ______________

Address of Parents or Guardian: ______________________________

A meeting of the district special education placement team was held on

______________________ . The following persons were in attendance:
(Date)

(Name)	(Title or Role)

At this meeting it was determined that the above-named student showed characteristics of ______________________________
(Handicap)

(Handicap Code: ______)based on the following criteria: (e.g., tests, anecdotal records, etc.)

____

____

____

____

____
(Student's Name)

As a result, a decision was made to recommend placement in the following program: ______________________________

____

____

This placement is recommended for the following reasons: (Check appropriate reasons)

☐ Student needs smaller student-teacher ratio than available in regular class.

☐ Student needs one-to-one instruction.

☐ Student needs low stimulus environment.

☐ Student needs high stimulus environment.

☐ Student needs remedial or additional instruction available through this placement.

☐ Student requires modified physical environment available at this facility.

☐ There are no modifications that could be made for this student within the regular classroom.

☐ The only possible program is home instruction.

☐ Student is a discipline problem in the regular classroom.

☐ Student needs specialized curriculum or materials available through this placement.

☐ Transportation difficulties preclude placement in any other program.

☐ ______________________________

____

☐ ______________________________

____

☐ ______________________________

____

Other programs and/or facilities considered were:

____

____

____

____

____
(Student's Name)

The following are conditions for provision of the recommended placement:

1. School district will be responsible for the following costs: CHECK a.) or b.)

☐ a.) Total cost of program and transportation for programs operated within the district.

OR

☐ b.) Tuition costs up to State Average Tuition* and transportation costs up to State Average Tuition* for programs operated on a regional or tuition basis.

*State Average Tuition for the 19___ - 19____school year:

(Fill in amount appropriate for the student named herein)

for students age 14 years or over on or before September 1 this year is $__________.

for students up to the age of 14 years by September 1 this year is $____________.

2. Transportation will be provided by______________________________

____

at a rate of: _____________________________________

Payble:____
(Payment schedule or condition)

____

3. Amounts over State Average Tuition liability which the school district agrees to pay:

Regarding tuition:__________________________________

____

Regarding transportation:_____________________________

____

This child's placement will be reconsidered every year

This agreement will be in effect until June 30, 19____.

Prior to (before) that date, a new statement of agreement will be proposed to the parent or guardian for the school year beginning the following September.

NEW HAMPSHIRE STATE DEPARTMENT OF EDUCATION
VOCATIONAL REHABILITATION DIVISION
SPECIAL EDUCATION SECTION
105 LOUDON ROAD, BUILDING #3
CONCORD, N.H. 03301

STANDARDS FOR THE EDUCATION OF EMOTIONALLY HANDICAPPED CHILDREN

1. Definition

"Emotionally handicapped" shall mean a child between the ages of five and twenty-one years, married or unmarried, who, by reason of internal emotional conflicts, home conditions, or general environment, has behavior and/or learning problems or is otherwise unable to make normal social or educational adjustments, but who has sufficient intellectual and emotional capacity to be enabled with clinical diagnosis, proper treatment, training and remedial education, to become a responsible and self-supporting citizen.

2. Establishment of Educational Facilities

A. A school district shall establish programs for emotionally handicapped children as approved by the State Board of Education, or shall pay tuition to such an approved program maintained by another school district or by a private organization or provide a minimum of 5 hours per week of home instruction. Eligibility for this type of special education shall be determined by the school board under regulations promulgated by the State Board of Education. (See eligibility).

B. Whenever any handicapped child shall attend, with the approval of the State Board of Education, any public or private school situated within or outside of this state, which offers special instruction for the training or education of handicapped children and which has been approved for such training by the State Board of Education, the school district where such handicapped child resides is hereby authorized and empowered and shall appropriate and pay a portion of the cost of such education in the manner and up to the amounts as provided by RSA 193:4 and 194:27 (state average tuition).

C. A school district may pay tuition at a rate higher than the amount specified in RSA 193:4 and 194:27, when in the judgement of the school board the circumstances warrant it.

3. Eligibility

A. Children between five and twenty-one years of age, as defined in Number 1 of this Document in accordance with Section 186-A:2 of the Revised Statutes related to Public Schools, 1965.

B. For purposes of reimbursement, pupils in classes or programs for emotionally handicapped children must have been assigned on the basis of the following process:

(1) Eligibility for individual instruction, itinerant teacher, or special classes or schools shall be determined by a case study fully reviewed

(1) (cont'd)

by professional personnel in a staff conference. In general, professional personnel should include teachers, qualified psychologist, a school social worker, the school nurse, the special educator, or a representative from the special school, and other equivalent professional persons as designated by the superintendent of schools.

(2) In districts which do not employ the personnel listed in the above paragraph, children may be declared eligible for special instruction or placement on the basis of case studies and staff conferences conducted cooperatively by school personnel and approved social agencies and/or mental health resources.

(a) When indicated, appropriate medical examinations shall be required.

(b) Psychiatric or psychological consultation shall be provided for all children considered for admission to individual instruction, itinerant teaching, special classes or schools for the emotionally handicapped.

(c) Reports of all examinations and consultations should be in case study for consideration at staff conference.

C. Children must be re-evaluated periodically by a qualified psychological examiner. In no case should a period of more than three years elapse between evaluations.

D. Children who do not meet the above criteria may be assigned to the class and be considered for reimbursement with approval of the State Department of Education.

4. Admission and Dismissal

A. Before placement is made, parents and school officials should meet together to discuss the placement, and agreement of the parents should be secured. School officials should take special pains to inform the parents of their right to appeal, and to acquaint them with the process appeal whether or not the parents agree to the placement. For the protection of school officials, a written agreement to the placement should be executed. A suggested format for this agreement appears at the end of these guidelines.

B. Responsibility for the placement and/or dismissal of an emotionally handicapped child in a special class or program operated by a local district shall rest with the administrative head of that school district or the person assigned to represent him.

C. Responsibility for the placement and/or dismissal of an emotionally handicapped child in a special class shall rest with the administrative head of the school district or the person assigned to represent him.

5. Records

A. Cumulative records should be kept containing educational, health, medical, psychological records, and progress reports. These records should be accessible to the teacher and kept in a locked file.

B. A school register must be maintained.

C. The administrator is responsible for transferring appropriate records and reports to school districts in accordance with policies established by the local school board.

6. Class Size and Age Range

A. The self-contained special classes for emotionally handicapped children shall not be approved when the enrollment exceeds ten at the elementary, junior and/or senior high school level.

B. Plans for the operation of a departmentalized special education program for emotionally handicapped children shall be approved by the State Board of Education.

C. A departmentalized special education program shall insure that students are properly and appropriately placed and that no more than ten emotionally handicapped students are in a class with the special education teacher at any one time. Exceptions may be made for gym, music and other similar activities. The special education teacher as the specialist shall have the direct responsibility for the children assigned to the program. The program should demonstrate evidence of cooperation, coordination, and special appropriate preparation for all staff directly involved in the special education program.

D. Pre-adolescent and adolescent pupils should be grouped separately.

E. Pupils in classes for the emotionally handicapped should be grouped by chronological age and academic achievement level with an age range of not more than three years.

F. Deviations from the above pattern, (A-E), may be approvable when it is evident to the State Department of Education that an adequate special education program is maintained.

7. Curriculum

A. The school district or special school maintaining the special class program has the responsibility for the development and administration of a special course study appropriate to the academic potential and interest of the children involved.

8. Housing

A. Classrooms for the emotionally handicapped children should be located in a regular school building housing children of comparable ages.

B. The classroom should be of sufficient size to accommodate adequate equipment and provide space for the proper learning activities of the various class levels. In general, special classrooms should be comparable to other classrooms in the school.

9. Equipment and Instructional Materials

A. Classes for the emotionally handicapped should be provided with appropriate equipment and instructional materials adequate to develop a special educational program.

10. Supervision and Administration

A. Length of the school year shall be 180 days.

B. The length of the school day for the emotionally handicapped should exceed 5¼ hours, including recess but not lunch periods. Exceptions can be made in specific cases at the discretion of the superintendent for individuals of limited physical stamina.

C. Children attending less than four hours per day will not be approvable for purposes of reimbursement. However, children on work-study programs attending school less than four hours per day sponsored by school and/or vocational rehabilitation, will be approvable for purposes of reimbursement.

D. The school district should provide adequate supervision for the program for emotionally handicapped. The plan should include the superintendent or his representative, the building principal, and special supervisors who work cooperatively to supervise the program and integrate it into the total school program.

E. Every school board shall annually by October first report to the State Department of Education on census forms provided by that Department the number of handicapped children in its school district. A later report shall be made when any other handicapped child shall be located in said district. (186-A:4)

11. Transportation

A. The school board shall furnish suitable transportation to all handicapped children who are able to be so transported from their homes to the place where such instruction or training is to be furnished. However, the liability of a school equal to the liability of the district shall not exceed for each pupil transported an amount equal to the liability of the district for tuition as specified in RSA 193:4. Where the cost of such transportation would constitute an unreasonable expense the school board shall, at the expense of the district, board the children near the place where such instruction or training is to be furnished and shall provide transportation from the place where the children are boarded to the place of instruction or training. A school district may pay for transportation at a rate per pupil higher than the amount of liability for tuition as specified in RSA 193:4, when in the judgement of the school board the circumstances warrant it.

12. Teacher Qualifications

A. The special teacher of children under this program should have:

(1) Graduated from a four-year baccalaureate program approved for the preparation of special education teachers.

(2) A teacher's certificate from the State of New Hampshire.

(3) Endorsement for teaching the emotionally handicapped.

11/15/72

NEW HAMPSHIRE STATE DEPARTMENT OF EDUCATION
VOCATIONAL REHABILITATION DIVISION
SPECIAL EDUCATION SECTION
105 LOUDON ROAD, BUILDING #3
CONCORD, NH 03301

STANDARDS FOR THE EDUCATION OF INTELLECTUALLY HANDICAPPED CHILDREN

1. Definition

"Intellectually handicapped" shall mean a child between the ages of five and twenty-one years, married or unmarried, whose activity is or may become so far restricted by intellectual handicap, however caused, as to reduce his normal capacity for education or self-support, or both.

. Establishment of Educational Facilities

A. A school district shall establish programs for intellectually retarded children as approved by the State Board of Education, or shall pay tuition to such an approved program maintained by another school district or by a private organization or provide minimum of 5 hours per week of home instruction. Eligibility for this type of special education shall be determined by the school board under regulations promulgated by the State Board of Education. (See eligibility.)

B. Whenever any handicapped child shall attend, with the approval of the State Board of Education, any public or private school situated within or outside of this state, which offers special instruction for the training or education of handicapped children and which has been approved for such training by the State Board of Education, the school district where such handicapped child resides is hereby authorized and empowered and shall appropriate and pay a portion of the cost of such education in the manner and up to the amounts as provided by RSA 193:4 and 194:27 (state average tuition.)

C. A school district may pay tuition at a rate higher than the amount specified in RSA 193:4 and 194:27, when in the judgement of the school board the circumstances warrant it.

. Eligibility

A. Children between five and twenty-one years of age, as defined in Number 1 of this Document in accordance with Section 186-A:2 of the Revised Statutes related to Public Schools, 1965.

B. For purposes of reimbursement, pupils in classes or programs for intellectually handicapped children have been assigned on the basis of the following process:

(1) Eligibility for individual instruction, itinerant teacher, or

special classes or schools shall be determined by a case study fully reviewed by professional personnel in a staff conference. In general, professional personnel should include teachers, qualified psychologist, a school social worker, the school nurse, the special educator, or a representative from the special school, and other equivalent professional persons as designated by the superintendent of schools.

(2) In districts which do not employ the personnel listed in the above paragraph, children may be declared eligible for special instructions or placement on the basis of case studies and staff conferences conducted cooperatively by school personnel and approved social agencies and/or mental health resources.

  (a) When indicated, appropriate medical examinations shall be required.

  (b) Psychiatric or psychological consultation shall be provided for all children considered for admission to individual instruction, itinerant teaching, special classes, or schools for the intellectually handicapped.

  (c) Reports of all examinations and consultation should be in case study for consideration at staff conference.

Intelligence Quotient must be determined by a qualified examiner on an individual test of mental ability. (Recommended: Revised Stanford Binet or WISC (Wischler Intelligence Scale for Children.)). See also Section D.

Other objective data should also be utilized when possible when making a placement decision. (e.g. Achievement tests, teacher evaluations, I.T.P.A., Peabody, Frostig, etc.)

C. Children must be re-evaluated periodically by a qualified psychological examiner. In no case should a period of more than three years elapse between evaluations.

D. Children who do not meet the above criteria may be assigned to the class and be considered for reimbursement with approval of the State Department of Education.

. Admission and Dismissal

A. Before placement is made, parents and school officials should meet together to discuss the placement, and agreement of the parents should be secured. School officials should take special pains to inform the parents of their right to appeal, and to acquaint them with the process appeal whether or not the parents agree to the placement. For the protection of school officials, a written agreement to the placement should be executed. A suggested format for this agreement appears at the end of these guidelines.

B. Placement in Special Education programs shall be made upon psychological education, and when warranted, physical examination. No Special Education placement should be made, or program commenced until a staff conference is held. Placement in a regular public school class is preferable to placement in any other type of program of education and training. Continued placement in the program should be contingent upon an ongoing process of evaluation by the professional personnel involved.

C. Responsibility for the placement and/or dismissal of an educable or trainable intellectually handicapped child in a special class shall rest with the administrative head of the school district or the person assigned to represent him.

5. Records

A. Cumulative records should be kept containing educational, health, medical, psychological records, and progress reports. These records should be accessible to the teacher and kept in a locked file.

B. A school register must be maintained.

C. The administrator is responsible for transferring appropriate records and reports to school districts in accordance with policies established by the local school board.

6. Class Size and Age Range

A. The self-contained special classes for educable intellectually handicapped children shall not be approved when the enrollment exceeds fifteen at the elementary, junior and/or senior high school level.

B. A departmentalized special education program for intellectually handicapped children shall not be approved when the enrollment exceeds thirty at the elementary, junior and/or senior high school level.

C. A departmentalized special education program shall insure that students are properly and appropriately placed and that no more than fifteen intellectually handicapped students are in a class with the special education teacher at any time. Exceptions may be made for gym, music, and other similar activities. The Special Education teacher as the specialist shall have the direct responsibility for the children assigned to the program. The program should demonstrate evidence of cooperation, coordination, and special appropriate preparation for all staff involved in the special education program.

D. Self-contained classes for trainable intellectually handicapped children shall not be approved when the enrollment exceeds ten.

E. Pre-adolescent pupils should be grouped separately.

F. Pupils in classes for the educable intellectually retarded should be grouped by chronological age, with an age range of not more than four years.

G. Pupils in trainable intellectually handicapped classes should be grouped according to chronological age, with an age range of not more than six years.

H. Deviations from the above pattern (A-G) may be approvable when it is evident to the State Department of Education that an adequate special education program is maintained.

Curriculum

A. The school district or special school maintaining the special class or program has the responsibility for the development and administration of a special course of study, including prevocational training and guidance, leading to the development of the competencies required in daily living.

Housing

A. Classrooms for the educable and trainable intellectuably handicapped children should be located in a regular school building housing children of comparable ages.

B. The classroom should be of sufficient size to accommodate adequate equipment and provide space for the proper learning activities of the various class levels. In general, special classrooms should be comparable to other classrooms in the school.

Equipment and Instructional Materials

A. Classes for the educable and trainable intellectually handicapped should be provided with appropriate equipment and instructional materials adequate to develop a special educational program.

Supervision and Administration

A. Length of the school year shall be 180 days.

B. The length of the school day for the intellectually handicapped should exceed 5½ hours, including recess but not lunch periods. Exceptions can be made in specific cases at the discretion of the superintendent for individuals of limited physical and emotional stamina.

C. The school district should provide adequate supervision for the program for educable and trainable intellectually handicapped. The plan should include the superintendent or his representative, the building principal, and special supervisors who should work cooperatively to supervise the program and integrate it into the total school program.

D. Every school board shall annually report to the State Department of Education on census forms provided by that Department the number of handicapped children in its school district. A later report shall be made when any other handicapped child shall be located in said district. (186-A:4)

. Transportation

A. The school board shall furnish suitable transportation to all handicapped children who are able to be so transported from their home to the place where such instruction or training is to be furnished. However, the liability of a school district for transportation shall not exceed for each pupil transported an amount equal to the liability of the district for tuition as specified in RSA 193:4. Where the cost of such transportation would constitute an unreasonable expense the school board shall, at the expense of the district, board the children near the place where such instruction or training is to be furnished and shall provide transportation from the place where the children are boarded to the place of instruction or training. A school district may pay for transportation at a rate per pupil higher than the amount of liability for tuition as specified in RSA 193:4, when in the judgement of the school board the circumstances warrant it.

12. Teacher Qualifications

A. The special teacher of children under this program should have:

1. Graduated from a four-year baccalaureate program approved for the preparation of special education teachers.
2. A teacher's certificate from the state of New Hamshire.*
3. Course work in the following areas:
    a. Nature and Needs of the Mentally Retarded.
    b. Occupational Education and/or Curriculum Development for the Mentally Retarded. **

c. Methods of Teaching the Mentally Retarded.

d. Introduction to Exceptional Children

e. Handicraft Methods.***

f. Observation and Supervised Teaching of the Mentally Retarded.

*Should include twelve semester hours or course work in the special area, six semester hours of supervised student teaching in the area of specialty or one year of successful teaching experience in the special area.

**Secondary level teachers only.

***Trainable level teachers only.

10/25/72

NEW HAMPSHIRE STATE DEPARTMENT OF EDUCATION
VOCATIONAL REHABILITATION DIVISION
SPECIAL EDUCATION SECTION
105 LOUDON ROAD, BUILDING #3
CONCORD, N.H. 03301

STANDARDS FOR THE EDUCATION OF PHYSICALLY HANDICAPPED

1. Definition

"Physically handicapped" shall mean a child between the ages of five and twenty-one years, married or unmarried, whose activity is or may become so far restricted by physical defect or infirmity, however caused, as to reduce his normal capacity for education or self-support, or both.

2. Establishment of Programs

A. A school district shall establish programs for physically handicapped children as approved by the State Board of Education, or shall pay tuition to such an approved program maintained by another school district or by a private organization or provide a minimum of 5 hours per week of home instruction. Eligibility for this type of special education shall be determined by the school board under regulations promulgated by the State Board of Education. (See eligibility).

B. Whenever any handicapped child shall attend, with the approval of the State Board of Education, any public or private school situated within or outside of this state, which offers special instruction for the training or education of handicapped children and which has been approved for such training by the State Board of Education, the school district where such handicapped child resides is hereby authorized and empowered and shall appropriate and pay a portion of the cost of such education in the manner and up to the amounts as provided by RSA 193:4 and 194:27 (state average tuition).

C. A school district may pay tuition at a rate higher than the amount specified in RSA 193:4 and 194:27, when in the judgement of the school board the circumstances warrant it.

3. Eligibility

A. Children between five and twenty-one years of age (deaf children between four and twenty-one years of age) as defined in Number 1 of this Document in accordance with Section 186-A:2 of the Revised Statutes related to Public Schools, 1965.

B. For purposes of reimbursement, pupils in classes or programs for physically handicapped children may fall within the following categories:

(1) Learning Disabled

Children with one or more significant deficits in essential learning processes requiring remediation through special educational techniques.

(1) Learning Disabled (cont'd)

A child in this category generally demonstrates a discrepancy between expected and actual achievement in receptive or expressive language and/or spatial orientation. Learning disability is not primarily the result of sensory, motor, intellectual, or emotional handicaps, nor is it the result of the lack of opportunity to learn. However, learning disabled children are sometimes seen displaying the above handicaps in addition to their learning disability.

(2) Hearing Handicapped

(a) Deaf

Children with a hearing loss severe enough to seriously interfere even with amplification and communication training in the development of receptive or expressive language skills. Usually a child in this category has suffered the hearing loss before the development of spoken language.

(b) Hard-of-Hearing

Children with a hearing loss severe enough to seriously interfere without amplification or communication training in the development of receptive or expressive language skills. A child in this category may suffer a hearing loss before or after the development of spoken language.

(3) Vision Handicapped

(a) Blind

Children whose vision loss indicates that they can and should function in their total educational program chiefly through the Braille system, audi-aids and special equipment necessary for them to pursue their education effectively without the use of residual vision.

(b) Partially Sighted

Children who retain limited but useful vision for acquiring an education, but whose visual impairment after needed treatment and/or correction reduces school progress to such an extent that special educational provisions are necessary.

(4) Speech Disorders

Children with speech patterns that deviate so far from the speech of other children that it calls attention to them, interferes with communication, or causes its possessor to be maladjusted.

C. Children must be re-evaluated periodically by a qualified psychological examiner using accepted diagnostic procedures in education and psychology. In no case should a period of more than three years elapse between evaluations.

D. Children who do not meet the above criteria may be assigned to classes and be considered for reimbursement with approval of the State Department of Education.

4. Admission and Dismissal

A. Before the placement is made, parents and school officials should meet together to discuss the placement, and agreement of the parents should be secured. School officials should take special pains to inform the parents of their rights to appeal, and to acquaint them with the process appeal whether or not the parents agree to the placement. For the protection of school officials, a written agreement to the placement should be executed. A suggested format for this agreement appears at the end of these guidelines.

B. The psycho-educational examination should be followed by a staff conference of appropriate professional personnel to determine eligibility, placement and programming for the child.

C. Placement in special education programs shall be based upon psychological, educational, and when warranted, physical examination. No special educational placement should be made, or program commenced until a staff conference is held. Placement in a regular public school class is preferable to placement in any other type of program of education and training. Continued placement in the program should be contingent upon an ongoing process of evaluation by the professional personnel involved.

D. Responsibility for the placement and/or dismissal of a physically handicapped child in a special class operated by the local school district shall rest with the administrative head of the school district or the person assigned to represent him.

5. Records

A. Cumulative records should be kept containing educational, health, medical, psychological records, and progress reports. These records should be accessible to the teacher and kept in a locked file.

B. A school register must be maintained.

C. The Administrator is responsible for transferring appropriate records and reports to school districts of the State Board of Education in accordance with policies established by the local school board, or private institutions.

6. Class Size and Age Range

A. The self-contained special classes for physically handicapped children shall not be approved when the enrollment exceeds fifteen at the elementary, junior and/or senior high school level.

B. Specific plans detailing a departmentalized special education program for physically handicapped children shall be approved no less than yearly by the State Board of Education.

C. A departmentalized special education program shall insure that students are properly and appropriately placed and that no more than physically handicapped students than are allowed in self-contained special classes are in a class with the special education teacher at one time. Exceptions may be made for gym, music and other similar activities. The special education teacher as the specialist shall have the direct responsibility for the children assigned to the program. The program should demonstrate evidence of cooperation, coordination, and special appropriate preparation for all staff directly involved in the special education program.

D. Self-contained classes for deaf children shall not be approved when the enrollment exceeds eight. Schooling for deaf children begins at age four if the child is capable.

E. Pre-adolescent and adolescent pupils should be grouped separately.

F. Pupils in classes for the physically handicapped should be grouped by chronological age and achievement level, with an age and/or achievement range of not more than three years.

G. All programs shall make use of ancillary specialized personnel on an itinerant basis whenever applicable to the needs of the student.

H. Vision handicapped children may be integrated into regular classes when ancillary services are provided and progress is adjudged to be satisfactory upon periodic review by the State Board of Education.

I. Deviations from the above pattern, (A-H) may be approvable when it is evident to the State Department of Education that an adequate special education program is maintained.

7. Curriculum

A. The school district or special school maintaining the special class program for physically handicapped children has the responsibility for the development and administration of a special course study, including prevocational training and guidance, leading to the development of the competencies required for productive citizenship.

8. Housing

A. Classrooms for physically handicapped children should be located in a regular school building housing children of comparable ages.

B. The classroom should be of sufficient size to accommodate adequate equipment and provide space for the proper learning activities of the various class levels. In general, special classrooms should be comparable or better equipped than other classrooms in the school.

9. Equipment and Instructional Materials

A. Classes for the physically handicapped should be provided with appropriate equipment and instructional materials adequate to develop a special educational program.

10. Supervision and Administration

A. Length of the school year shall be 180 days.

B. The length of the school day for the physically handicapped should exceed 5½ hours, including recess but not lunch periods. Exceptions can be made in specific cases at the discretion of the superintendent for individuals of limited physical and emotional stamina.

C. Children attending less than four hours per day will not be approvable for purposes of reimbursement. However, children on work-study programs attending school less than four hours per day sponsored by school and/or vocational rehabilitation, will be approvable for purposes of reimbursement.

D. The school district should provide adequate supervision for the classes or programs for educating physically handicapped. The plan should include the superintendent or his representative, the building principal, and special supervisors who should work cooperatively to supervise the program and integrate it into the total school program.

E. Every school board shall annually by October first report to the State Department of Education on census forms provided by that Department the number of handicapped children in its school district. A later report shall be made when any other handicapped child shall be located in said district. (186-A:4)

11. Transportation

A. The school board shall furnish suitable transportation to all handicapped children who are able to be so transported from their homes to the place where such instruction or training is to be furnished. However, the liability of a school district for transportation shall not exceed for each pupil transported an amount equal to the liability of the district for tuition as specified in RSA 193:4. Where the cost of such transportation would constitute an unreasonable expense the school board shall, at the

11. Transportation (cont'd)

expense of the district, board the children near the place where such instruction or training is to be furnished and shall provide transportation from the place where the children are boarded to the place of instruction or training. A school district may pay for transportation at a rate per pupil higher than the amount of liability for tuition as specified in RSA 193:4, when in the judgement of the school board the circumstances warrant it.

12. Teacher Qualifications

A. The special teacher of physically handicapped children under this program should have:

1. Graduated from a four-year baccalaureate program approved for the preparation of special education teachers.

2. A teacher's certificate from the State of New Hampshire.

3. Endorsement of teacher's certification for special area to be taught.

11/15/72

STANDARDS FOR THE SPECIALIST IN ASSESSMENT OF INTELLECTUAL FUNCTIONING

- published by the Department of Education
for the State of New Hampshire

Background

A Specialist in Assessment of Intellectual Functioning should be hired only if there is available within the school district(s) opportunities for consultation and/or supervision with a School Psychologist, or Psychologist certified in the State of New Hampshire. (This psychologist should have a contractural arrangement with the school district.) The New Hampshire Division of Mental Health and the State Board of Education will use their resources to assure adequate consultation during any crisis periods when it cannot be obtained locally.

Specialist in Assessment of Intellectual Functioning

A. Entry Level Requirements

1. Have a Masters degree in Psychology, or equivalent and
2. Have background and experience in one of the fields connected with Pupil Personnel Services in an elementary or secondary school setting, such as: Guidance Director, School Counselor, School Social Worker, Remedial Teacher, Teacher Consultant, etc.

Course Requirements

1. Background course areas - at least one course must be taken in each area; undergraduate credit is acceptable:

    Elementary Statistics
    Child Psychology, Child Growth and Development, etc.
    Personality, Psychology of Adjustment, Abnormal Psychology, etc.
    Exceptional Child, Retardation, etc.

    (Under certain circumstances, workshop and supervised experience may be equivalent in a given area. Care must be taken that an apparent equivalent is a real equivalent.)

Course Requirements (cont'd)

2. Intelligence Testing course areas - all must be taken; undergraduate credit is acceptable for the first time, only:

   Tests and Measurements
   Individual Intelligence Testing (course must include giving at least 15 WISC and/or Stanford Binet, plus observation of testing at least once.)
   Supervised Practicum in Individual Intelligence Testing, after completion of Individual Intelligence Testing
   Use of Individual Intelligence Tests (course must have focused on interpretation of cognitive functioning and implications for learning problems.

Internship

One year of successful experience in the Specialist in Assessment of Intellectual Functioning role is required before certification is given.

All Course Requirements 2 must have been met prior to the Internship; however, up to two areas in Course Requirements 1 may be taken concurrently with the Internship year.

Questions concerning qualifications of applicants for the certificate of Specialist in Assessment of Intellectual Functioning may be referred for an advisory opinion to the Chief Psychologist, Division of Mental Health. Final decision rests with the New Hampshire Department of Education, Director of Teacher Education and Professional Standards.

B. Application Procedures for Certification as Specialist in Assessment of Intellectual Functioning

Contact the Office of Teacher Education and Professional Standards
410 State House Annex, Concord, N.H. 03301

C. Role Description

One who is responsible for interpreting the intellectual functioning of the individual child within the school setting. The Specialist may use school readiness tests, group intelligence tests, achievement tests and other cognitive instruments; integrate teachers' comments, past school records, test reports from outside sources, e.g. from a

C. Role Description (cont'd)

mental health center or previous school system, as well as take into account the child's family and personal characteristics and evolve all into an interpretive report.

The Specialist is trained to recognize when a pervasive problem requires referral.

The Assessment Specialist's role is carried out under the administrative supervision of the Superintendent of Schools, and as a member of the Pupil Personnel Services team. This may be a part-time role, with the Assessment Specialist serving in another capacity , e.g. as a Reading Specialist, Speech Therapist, or Counselor. The time spent in each role should be differentiated for the purposes of consultation and supervision.

Certification does not imply competence for the use of the individual intelligence tests and associated data except within the administrative educational context of a school system. The Assessment Specialist is not necessarily qualified to engage in private practice as a Specialist in Assessment of Intellectual Functioning.

THE RESOURCES AVAILABLE TO THE HANDICAPPED CHILD

Introduction

This is only a beginning at compiling a list of the resources available for handicapped children. Services in New Hampshire for the handicapped child are not easy to find. So be persevering. Be prepared to make several telephone calls before you reach someone who is able or willing to assist you. And when you receive a negative reply, don't be discouraged, ask the person if he/she knows someone you could contact, and then try again.

This section will include: (1) phone numbers to call for general information and referrals, (2) mental health centers, (3) centers for developmental disabilities, (4) private schools and organizations which have educational programs for handicapped children, and (5) legal resources.

GENERAL INFORMATION AND REFERRAL SOURCES

A comprehensive guide of the resources available to handicapped children, ages 0-5, and their families is being published by the Vocational Rehabilitation Division of the State Department of Education. For copies, parents and other interested persons should contact:

Vocational Rehabilitation Division
Special Education Section
105 Loudon Road, Building #3
Concord, New Hampshire 03301
Tel.# 271-3741

1. The Vocational Rehabilitation Division is also responsible for informing schools about their obligations to the handicapped child. The Division will also answer questions about school programs and will refer parents to appropriate resources.

2. The main office of the State Department of Education is located in the State House Annex, 4th floor, Capitol Street, Concord 03301. Tel.# 271-3144

3. If your child is intellectually handicapped and you are seeking information or advice, contact:

   N.H. Association for Retarded Citizens, Inc.
   4 Park Street
   Concord, New Hampshire 03301
   Tel.# 224-7322

   This is a non-sectarian, non-profit educational organization whose primary objective is to improve the welfare and opportunities available to all retarded citizens in the state.

4. New Hampshire Association for Children with Learning Disabilities:

   > "is a non-profit organization whose purpose is to advance the education and general well-being of children with normal or potentially normal or above average intelligence who have learning disabilities arising from perceptual, conceptual, or subtle coordinative problems, sometimes accompanied by behavior difficulties."

   For information contact one of the following members:

   Mrs. Ann Campbell (past state president)
   20 Westbourne Rd.
   Concord 03301
   225-2052

   Mrs. Kay Goranson (current state president)
   1 E. Dunstable Rd.
   Nashua 03060
   888-0474

   Mrs. Louise Huppe (Manchester region chairwoman)
   292 Arah Street
   Manchester
   623-5820

EVALUATION AND TESTING

Prior to being placed in any program of special education, a child must be tested and evaluated. The following community mental health centers supply these services. You should contact the Mental Health Center nearest you (see attached map, page 16). Appointments can usually be obtained within a week. Emergency cases can be treated immediately. Fees vary depending on your income.

REGION 1:

Carroll County Mental Health Services
South Main Street
North Conway, N.H. 03860
356-5725

North Country Community Services
330 School Street
Berlin, N.H. 03570
752-7404

Northern New Hampshire Mental Health System
P.O. Box 905, Washington Street
Conway, N.H. 03818
447-3347

White Mountain Community Services
111 Cottage Street
Littleton, N.H. 03561
444-5358

REGION 2:

Dartmouth-Hitchcock Mental Health Cente
9 Maynard Street
Hanover, N.H. 03755
643-4000, ext.3678

Sullivan County Mental Health Clinic
Claremont General Hospital
Claremont, N.H. 03743
542-2578

REGION 3:

Lakes Region Mental Health Center
Lakes Region Hospital
Laconia, N.H. 03246
524-1853

REGION 4:

Concord Mental Health Center
40 South Main Street
Concord, N.H. 03301
224-2567

If you have any questions or problems regarding a local center, you should contact:

N.H. Division of Mental Health
Community Mental Health Services
105 Pleasant Street
Concord, New Hampshire 03301
271-2367

EVALUATION AND TESTING (cont'd)

REGION 5:

Monadnock Family and Mental
Health Service
331 Main Street
Keene, N.H. 03431
352-1009

REGION 6:

Community Council of Nashua
7 Prospect Street
Nashua, N.H. 03060
889-6147

REGION 7:

Child and Family Services
of New Hampshire
99 Hanover Street
Manchester, N.H. 03105
668-1920

Greater Manchester Mental
Health Center
401 Cypress Street
Manchester, N.H. 03103
668-4111

REGION 8:

Greater Salem Family Counseling Center
312 Main Street
Salem, N.H. 03079
893-3548

Seacoast Regional Counseling Center
100 Junkins Avenue
Portsmouth, N.H. 03801
431-6703

REGION 9:

Strafford Guidance Center
Wentworth-Douglass Hospital
Dover, N.H. 03820
742-0630

If you have any questions or problems regarding a local center, you should contact:

N.H. Division of Mental Health
Community Mental Health Services
105 Pleasant Street
Concord, New Hampshire 03301
271-2367

MEDICAID PROGRAM

Any child in an AFDC family, or in a licensed foster care home, or in a family in the medicaid program, is eligible for free medical services. These services include physical examination and testing, psychological testing and evaluation by a psychiatrist or a qualified clinical psychologist, medication and rehabilitation services.

If a parent or doctor feels that a child requires psychological testing, contact the social worker in your district welfare office. He or she will make the necessary referrals. It is possible to make a direct request to the state office in Concord, but they will usually refer you to the district office.

If a child under your care has not been certified for the medicaid program, but is eligible, or if you have any questions contact:

Concord District Office
N.H. Division of Welfare
10 Pleasant Street, Extension
Concord, New Hampshire 03301
224-9971

DEVELOPMENTAL DISABILITIES CENTERS

Each region has at least one developmental center (see attached map, page 16) for children with developmental disabilities which provide one or more of the following services: referral and diagnosis, special education, vocational training, rehabilitation, and day care.

> *Developmental disabilities include: cerebral palsy, epilepsy, mental retardation and other neurological impairments.*

If the following developmental centers cannot provide the assistance or information you need, contact:

Office of Mental Retardation
(N.H. Division of Mental Health)
Concord, N.H. 03301
271-2671

In addition, one newly established Bureau of Developmental Disabilities is attempting to improve and coordinate communication between all agencies and organizations concerned with handicapped children. They are currently involved in providing services, training and information to developmental centers. The Bureau is located at: 64 North Main Street, Concord, N.H. 03301, Tel.# 224-5655.

REGION 1

Center of Hope, Inc.
Box 789
North Conway, N.H. 03860
356-5735

Runs both the following centers. For any information call this number first.

Chocorua Development Center	Conway Regional Workshop
323-8080	356-3341
serves children ages 3-16 with developmental disabilities. Provides clinical training.	serves those ages 16 and over with developmental and physical disabilities. Provides vocational training.

Both centers do evaluative testing and diagnosis, counseling and referrals.

Lisbon Development Center
White Mountain Community Services
111 Cottage Street
Littleton, N.H. 03561
444-5358

Soon to be renamed 'The Children's Development Center". Serves children 5-21 with a wide range of disabilities, especially epilepsy, emotional disturbances, hyperactivity, mental retardation.

North Country Community Services
330 School Street
Berlin, N.H. 03570
752-7404

Operates the following centers:

North Country Center for Exceptional Children	North Country Workshop
serves children ages 5-21.	serves children 16 and over.

Both canters serves developmentally disabled and the emotionally disturbed, but will accept other disabilities.

REGION 1 (cont'd)

Vershire Schools and Shop
Beecher Building, Depot Street
Colebrook, N.H. 03576
237-5721

Serves mentally retarded citizens ages 16 and over. Accepts some physically handicapped.

REGION 2

Children's Center of the Upper Valley
213 Mechanic Street
Lebanon, N.H. 03766
448-1615

Special education program for handicapped children, ages 2 years 9 months - 6 years.

Lebanon Regional Training Center
1 Foundary Street
Lebanon, N.H. 03766
448-2077

Serves primarily the mentally retarded ages 15 and over, but accepts other handicaps.

Sullivan County Rehabilitation Center
Hanover Street Extension
Claremont, N.H. 03743
542-6900

Serves and helps develop the capabilities of the intellectually, physically and emotionally handicapped citizens of Sullivan County over age 16.

REGION 3

Lakes Region Day Care Center
P.O. Box 365
Laconia, N.H. 03246
524-1235

Provides day care program for ages 1½ - 6. Accepts all handicaps.

Pemigewasset Development Center
3 Bailey Avenue
Plymouth, N.H. 03264
536-3279

Serves handicapped children, ages 0-21.

REGION 4

Bancroft Products, Inc.
105 Pleasant Street
Concord, N.H. 03301
225-5572

Sheltered workshop for children ages 15 and over.

Concord Development Center
40 South Main Street
Concord, N.H. 03301
224-2567

Provides pre-school program for ages 3-7 and diagnostic and counseling services.

Merrimack Valley Day Care Service
19 N. Fruit Street
Concord, N.H. 03301
224-1632

Day care program for handicapped children, ages 18 months - 6 years.

REGION 5

Monadnock Workshop
76 Main Street
Peterborough, N.H. 03458
924-6359

Serves the mentally retarded, epileptic, blind, educationally and physically handicapped citizens, ages 15 and over.

New Hope - New Horizons, Inc.
331 Main Street
Keene, N.H. 03431
352-7005
352-0240 (New Hope)

Serves the developmentally disabled, ages 3½ and over.

Souhegan Valley Development Center
Peterborough Elementary School
High Street
Peterborough, N.H. 03458
924-6889

Serves children, ages 3-9, with most handicaps - physical, emotional, developmental. Provides assistance to children with social and academic problems.

REGION 6

Mount Hope Rehabilitation Workshop
51 Lake Street
Nashua, N.H. 03060
889-0652

Affiliated with Mt Hope School (see under "Intellectually Handicapped" page 17). Serves all handicapped children, ages 16-21 years of age.

REGION 7

Greater Manchester Child Care Association
435 South Main Street
Manchester, N.H. 03102
627-4440

Provides day care services for children ages 0-5. Accepts most disabilities - physical, intellectual, emotional.

Manchester Association for Retarded Children
William J. Moore Center
Manchester, N.H. 03103
623-1683

Serves developmentally disabled children and adults from Manchester and surrounding towns.

REGION 8

Community Day Care Center, Inc.
444 Circuit Road
Portsmouth, N.H. 03801
436-8414

Provides day care and home day care services for children, ages 6 weeks - 3rd grade.

Great Bay School and Training Center
Old Dover Road
Newington, N.H. 03801
436-2014

A comprehensive rehabilitation center that serves the mentally retarded. Provides schooling for children ages 2-15, training and work programs for ages 16 and over.

Kimi Nochols Development Center
East Road
Westville, N.H. 03892
382-6296

Serves children 3 and over who have an intellectual, behavioral or neurological disability.

Rockingham Children's Center
Bixler House
10 Center Street
Exeter, N.H. 03833
778-8193

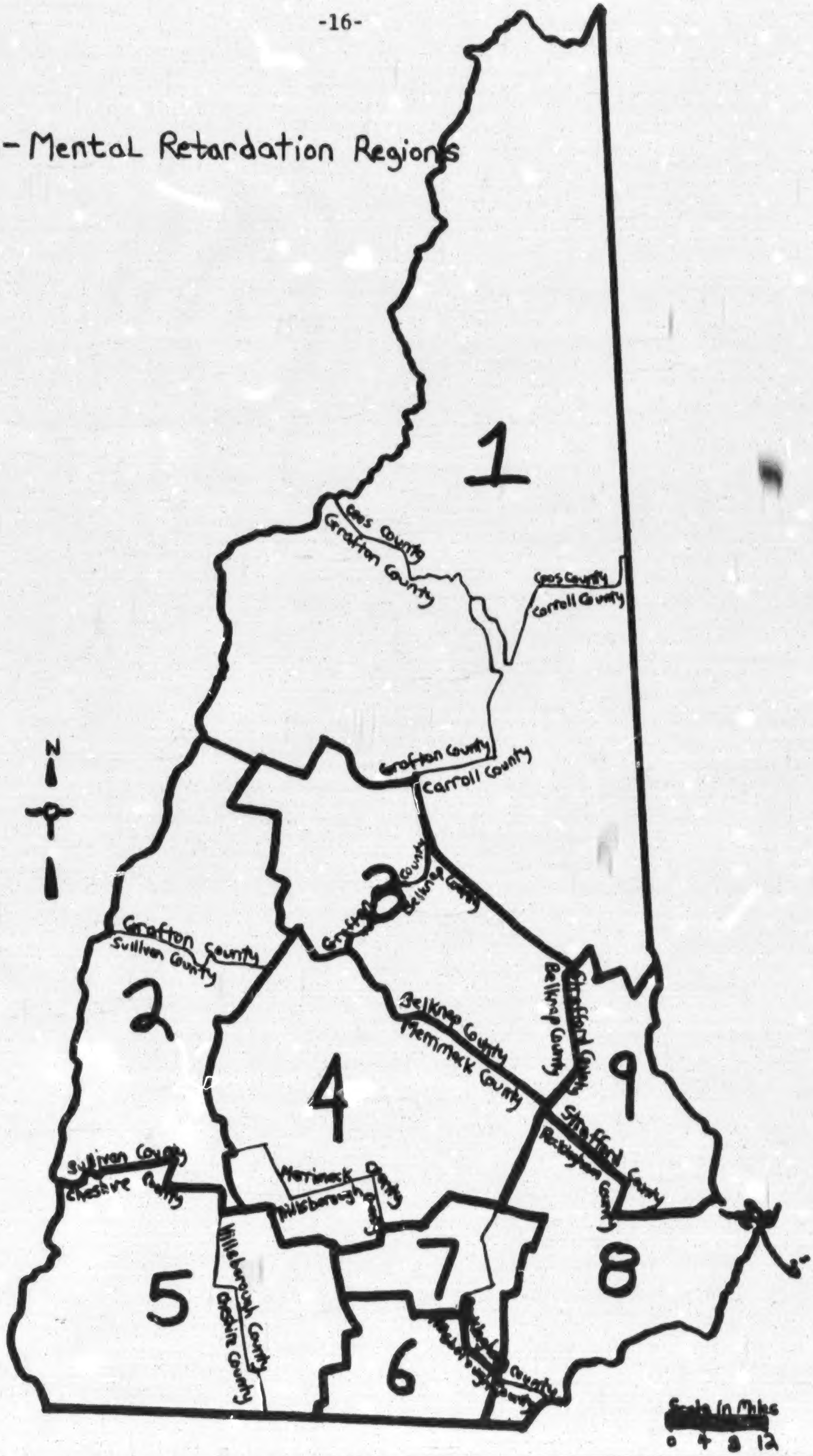
Serves children from 0-7 years. Accepts most handicaps. Provides a pre-school training program. (Call Tuesday, Wednesday or Thursday mornings)

REGION 9

Rochester Child Development Center
Box 1905
Rochester, N.H. 03867
332-2848

Serves handicapped children, ages 2-14. Provides testing, referral, therapy and teaches self-help skills.

entaL Health- MentaL Retardation Regions


1
Coos County
Grafton County
Coos County
Carroll County
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Carroll County
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3
Carroll County
Belknap County
Grafton County
Grafton County
Sullivan County
2
Belknap County
Merrimack County
Belknap County
Strafford County
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Strafford County
Rockingham County
Sullivan County
Cheshire County
Merrimack County
Hillsborough County
7
8
5
Hillsborough County
Cheshire County
6
Hillsborough County
Rockingham County
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SPECIAL PROGRAMS AND SCHOOLS

All other programs for the handicapped child are listed in subdivisions: intellectually handicapped, emotionally handicapped, physically handicapped, and programs which serve children with multiple handicaps. The schools are listed in alphabetical order.

I. INTELLECTUALLY HANDICAPPED

Laconia State School and Training Center
Box 370
Laconia, N.H. 03246
524-5373

Only state facility for the care and instruction of mentally retarded. Provides extensive services for all ages. For information contact: the division of Mental Health (of the Department of Health and Welfare) in Concord at 225-5511, extension 457 or 458.

Nashua Association for Retarded Children
Mount Hope School
40 Arlington Street
Nashua, N.H. 03060
889-2442
883-4808

Provides day educational classes for retarded children in Nashua area, ages 0-21.

II. EMOTIONALLY HANDICAPPED

Austin-Cate Academy
Center Strafford, N.H. 03815
645-5555

Residential school for boys and co-ed day school for ages 13-19. Serves emotionally disturbed youngsters and those with problems at home, school or in the community.

Ernest L. Herrman School
475 Varnum Avenue
Lowell, Mass.
(617) 454-4234

Day school for emotionally disturbed children ages 5-18. Accepts some multiply-handicapped children.

Hampshire Country School
Rindge, N.H. 03461
899-3325

Residential school for children, ages 8-16, who are emotionally disturbed.

Horizon's Edge Country Home School
Canterbury, N.H. 03224
783-4383

School for emotionally disturbed and socially maladjusted children of average and above-average intelligence, ages 6-14.

Philbrook Center for Children and Youth Services
121 S. Fruit Street
Concord, N.H. 03301
224-6531

A unit of the New Hampshire State Hospital which provides residential and day services, therapy, treatment, and a full-time school program - for emotionally disturbed children, ages 6-18.

II. EMOTIONALLY HANDICAPPED (CONT'D)

Pine Haven Boys Center
River Road
Suncook, N.H. 03275
485-7141

Residential treatment and educational center for emotionally disturbed boys, ages 10-18. Some day students accepted.

Spaulding Youth Center
P.O. Box 189
Tilton, N.H. 03276
286-8901

Provides year round residential treatment and education for emotionally disturbed boys, ages 6-12.

III. PHYSICALLY HANDICAPPED

American School for the Deaf
139 North Main Street
West Hartford, Connecticut 06107
(203) 236-5891

School for hearing-impaired children, ages 2-21.

Austine School for Hearing Handicapped Children
120 Maple Street
Brattleboro, Vermont 05301
(802) 254-4571

A day and residential school for hearing-impaired children, ages 4-18.

Beverly School for the Deaf
6 Echo Avenue
Beverly, Mass. 01915
(617) 922-0906

A residential and day school for children, ages 4-18, with hearing problems.

Boston School for the Deaf
800 North Main Street
Randolph, Mass. 02368
(617) 963-8150

A day and residential school for aphasic, deaf and multiply-handicapped deaf children, ages 3-15.

The Clarke School for the Deaf
Round Hill Road
Northhampton, Mass. 01060
(413) 584-3450

Residential school for deaf children, ages 4-17 years.

OTHER PROGRAMS

Cedarcrest Home and School for Handicapped Children
Aldrich Road
Westmoreland, N.H. 03467
399-4446

Serves physically and mentally handicapped children, ages 0-16.

Crotched Mountain Center
Greenfield, N.H. 03047
547-3311

Contact: Director of Admissions, Room 320

A comprehensive educational and rehabilitation facility for multiply handicapped children, ages 3-21.

Easter Seal Rehabilitation Center
80 Tarrytown Road
Manchester, N.H. 03103
622-6438

Services all ages and all disabilities.

Homestead School for Exceptional Children
Stowe Mountain Road
Hillsboro Upper Village, N.H. 03244
478-3255

Residential school for children, ages 5-15. Serves the mentally retarded, emotionally disturbed and some physically handicapped children.

Miss Jacques' School
482 River Road
Manchester, N.H. 03102
623-6051

Private day school serving children, ages 4-16, with learning disabilities, physical handicaps, and mild emotional problems.

OTHER PROGRAMS (cont'd)

Monadnock Children's Special Center
331 Main Street
Keene, N.H. 03431
352-7551

Serves all school-age children in supervisory unions #29, #47, #60 with behavioral and physical problems.

Pembroke Place School
Buck Street
Suncook, N.H. 03275
485-7779

Boarding school for boys, grades 7-12. Accepts boys with academic problems, some physical and emotional handicaps (i.e. controlled epileptic, orthopedically handicapped, deaf, asthmatic).

Portsmouth Rehabilitation Center
Box 901, Route 1 Interstate By-Pass
Portsmouth, N.H. 03801
436-5716

Comprehensive outpatient rehabilitation facility serving all ages - infants through adults. Programs for all disabilities.

LEGAL SERVICES

American Civil Liberties Union
3 Pleasant Street
Concord, N.H. 03301
225-3080

New Hampshire Bar Association
77 Market Street
Manchester, N.H. 03104
669-4869

New Hampshire Legal Assistance - a private non-profit corporation funded by the federal government to provide free legal services in certain civil cases to eligible residents of New Hampshire who cannot afford a private attorney.

MAIN OFFICE

88 Hanover Street
Manchester, N.H. 03101 668-2900

BRANCH LAW OFFICES

33 Main Street
Berlin, N.H. 03570 752-1102

136 N. Main Street
Concord, N.H. 03301 224-3333

17 Roxbury Street
Keene, N.H. 03431 352-5533

20 W. Park Street
Lebanon, N.H. 03766 448-1333

3 Water Street
Nashua, N.H. 03060 883-9119

45 Pleasant Street
Portsmouth, N.H. 03801 431-7411

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